Insti-

tutions / or prínci-
pall groundes of the
lawes & statutes of Engla-
de, newly & very truly cor-
rected & amended with
many new and good-
ly addycions, very
profytable for all
sortes of people
to know, late-
ly augmen-
ted and Imprynted.

LONDINI.
M.V.XLIII.

Bridgewater

The prologe of the authoure to the reader.

Demosthenes the renowmed Oratour defineth lawe in this wise, The lawe (sayth he) is the thyng that all men ought to obey for many skylles, but in especyally bycause lawe is the inuencyon, and also the gyfte of God, the decree of prudent men, the chastisement of wylfull, & vnwilful offences, & fynallye the cõmon sauetye of a Realme, wherby it becõmethe all men to lyue, whiche be conuersaũt in the same. Chrysyppus also, an excellente philosopher, thus beginneth his boke of lawes.

¶ The lawe is kynge of all, alwell diuine as humane affayres, the president and cõtroller of thynges honest, and dyshonest, the Iustice, Capteyn, and ruler, of the iust, and iniust, and it is of Ciuile creatoures, alwell the commaũder, what they ought to do, as the forbydder, what they oughte nat to do. These auntyke sayenges of wyse men, assuredly ought much to inflame vs to the knowlege of those thinges without whiche we shalbe estemed no mẽ, but as brute and sauage beastes. Let vs nat commytte, that it be sayde of vs Englishe men, as it was ones sayde of the men, of Athens, that is, that we make very goodly and profytable lawes, but we vse thẽ nat. Certainly there can be no greater reproche to a common weale thẽ

this, One lesson I wolde we learned of the ancyent lawyer Romayne named Celsus, & that is this. The knowledge of lawes is nat to beare awaye the wordes but the pyth and power of them. This he wrote bicause there be many which whē good and holsome lawes be made, seke nat to se them executed, and obserued, but rather howe to defraude them and to haue thē vnexcuted, which kynde of people after ꝑ sentence of moste auncient lawmakers be no lesse worthy of reprehension than they which do expresselye agaynst the lawe. Now, they do (saye they) agaynst the law whiche do the thyng, ꝑ the law forbedderh. And they defraude a law or statute, which the wordes of the law saued, do circumuent the meanynge and sentence of it. Let vs then so reade the lawes, that we maye beare away ꝑ sentence and mynde of them, & so fulfyl & obserue the lawes, ꝑ it maye appere that they were nat made in vayne. Thus doynge, we shall please god, we shall be obedient subiectes to our prince & kynsmen we shall seke our owne weale & sauety.

THe lawe is the direc-
cyon & mynistracio of iustice.
And iustice is (as themperour
Justinian, sayth in his institu-
cyons) a constaunte & per-
manente wyll to rendre vnto
euery persō his right & duty.

☞ The learnynge or prudence of lawe, is a knowlege of diuine & humane thinges & scīēce and perfite notyce of equitye and iniquitie, of ryght and wronge.

¶ Nowe forasmuche as a greate porcyon of the prudence or science of ỹ lawes of this realme of Englād cōsisteth in the perfite knowlege of estates, whiche men haue in landes and tenementes: we shall fyrste as compendiously, and as symply and playnly as we can, treate somwhat of estates.

☞ A diuision of estates.

YE shal therfor vnderstande, that whosoeuer hathe any state in landes or tenemētes, either he hath in the same onely a chatell, or a holde, or inherytaunce. Yf he hath an estate but for terme of certayne yeres, or at his landlordes wyl: so is it called a chatell, yf for terme of hys lyfe or of an other mannes lyfe, it is called a fre hold. And yf he hath it to hym & to his ayres in fee symple or in tayle: then he hath a state of inheritaūce.

Chatell.

Freholde.

Inheritaunce.

¶ Tenaunt for terme of yeres.

Tenaunt for yeares.

Tenaunte for terme of yeres, is he to whome landes or tenemētes be lette for terme of certaine yeres, as is agreed betwene the landlorde & the tenaunt. And when the person to whome suche lease is made doth entre by force of the sayde lease, and is in possession of the same: then he is called tenaunte for terme of yeares.

Rent reserued.

¶ And here ye shall note, that yf the lessour, þ made the lesse hath reserued vnto hym a yearly rent vpon the sayde lesse (as it is acustomably vsed to be done) yf the rent be behynde vnpayd, it shalbe in his electiō eyther to entre and dystrayne for the rent, or to bryng an accion of

Accio of dette.

dette agaynst him at the lawe for þ arrerages of the same. But in this case it is requisite, þ the lessoure were sealed of the landes or tenementes at the tyme of the makyng of the lease for otherwise it shalbe a good plee in the accio of dette for the tenaunt to saye, that the lessour had nothyng in the lande and tenement at the tyme of the lease made: excepte the lease were made by dede endented, for then the plee shall nat lye in the tenauntes mouth to plede.

A good plee.

☞ And it is to be knowen, that in a lease for terme of yeares, whether it be by dede or without dede, there nede no lyuery of season to be made to þ lease, but he may entre when he will by vertue of his lease, without any further ceremony of the lawe.

Lyuery of season nede nat in lease for terme of yeares.

¶ Also yf a mā lesseth landes for terme of yeares, though the lessour chaūgeth to dye before þ leasse doth entre, yet he may ētre wel ynough Otherwise it is where liuery of seasō is to be made, as in free holdes and inheritaunce.

Also

☞ Also yf the tenaunt for yeares doth waste, the landlorde may bringe an accion of waste agaynst him, and shal recouer the place wasted, and his treble damages. Wast.

¶ Also yf a leale, for yeares be made of two fundrall thynges, and after ỳ one is recouered the ielle shall holde the other, and the rent or terme shalbe apporcyoned. 19. H. 8.

☞ Also yf the tenaunt, for yeares graunteth a greater estate in the lande, than he hath hym selfe wherby he cõueyeth ỳ fee symple to hym selfe, he shall forfete his leale or terme. Forfeture.

☞ Tenaunt at wyll.

TEnaunt at wyll, is he to whom landes or tenementes be lessed to haue & holde the lawe at the wyll of the lessour. And in this cale the lessour may put out his tenaũt at what tyme hym lysteth. But yet neuerthelesse, yf the tenaunt haue sowed the grounde with corne in this cale yf the lessour, wyl entre and put oute his tenaunt before Harueste, the lawe wyll gyue hym free cõmynge and goyng to reape and cary his corne awaye without any punyshmẽt or dammage to be sustayned for hys so doynge because he knew not at what tyme the lessour wolde entre. But otherwyse it is of the tenaunt for certayne yeares, for yf he sowed the groũd, and the terme of ỳ leasse be come out & expyred before the corne be ripe, in this cale ỳ lessour or he in the reuersiõ may entre & take the corne. because it was the folie of the tenaunt to sowe the grounde, knowyng the ende of his terme.

¶ In lyke wise tenaunt at wyl shall haue free

cõmynge and goynge after the tyme of the lesse
soures entree, to carye awaye hys houshold-
stuffe and goodes for a reasonable space.

¶ Ye shall also vnderstand, that he ꝑ maketh
a lease at wyll, may reserue an annuell or yeer-
ly rente, in whiche case yf the rente be behynde,
he may entre very wel and distrayne ꝑ goodes
& cattelles of the tenaunte, or at his electyõ he
maye brynge an action of dette agaynst hym.

Distres or elles action of dette.

☞ Also it is to be knowen, that tenaunte at
will of a mese or tenaunt is nat bounde by the
ordre of lawe to sustayn and repayre ꝑ houses
that be decayed and ruynouse, as is the tenaũt
for yeares, and therfore none accyon of waste
lyeth agaynst him. Yet if he do wylfull waste:
as if he plucketh downe the houses, or cutteth
downe the trees: it hathe bene thought by the
sages of the lawe, that the lessoure may bryng
an accyon of trespasse agaynste hym and shall
recouer his losses therby sustayned.

Waste.

Trespas

¶ And yf suche a tenaunt dye and hys heare
entre in that case the lessour maye haue an ac-
cyon of trespas agaynst the heyre.

☞ Tenault by coppe of courte rolle.

There is an other kynde of tenaunte at
wyll, whiche is called tenaunt by coppe
of the courte rolles. And this is when
a man is sealed of a maner within whiche, it
hath bene vsed tyme out of mynde, that the te-
nauntes within the boundes and precyncte of
the sayde maner, haue holden landes and tene-
mẽtes to thẽ and to theyr heyres in fee simple,
fee tayle, or for terme of lyfe, at the wyll of the
lorde, accordyng to the custome of the maner.

And

And suche a tenaunt, can nat alyene or sell his lande by his dede, for yf he do, the lande or tenemente that is so alyened and solde, is forfayte into the lordes handes, but yf he wyl alyene his coppe holde lande to an other, he muste accordyng to the custome, come into ꝑ lordes court, and there surrendre it into the lordes hande, to the behouke and vse of hym that shal haue the state. The forme of whiche surrender is commonly vsed to be this. Surrender.

☞ Ad hanc curiam venit A. de. B. et sursum reddidit in eadem curia vnū messuagium. &c. in manus dñi ad vsum. C. de D. et heredū suorū vell heredum de corpore. &c. Et cuy hoc venit ꝓdectus C. de D. et cepit de dño in eadem curia messuagium ꝓdictum, habendum et tenendum sibi. &c. ad voluntatem dñi secundū consuetudinē manerii, faciendo inde redditus, seruitia, et cōsuetudines inde prius debitas et cōsuetas. &c. Et dat domino ꝓ fine. &c. Et fecit domino fidelitatem. The forme of surrender.

¶ These as I sayd be called tenaūtes by copie of court rolle, bycause they haue none other euidence to shewe cōcerning theyr landes, saue onely ꝑ copies of ꝑ rolles of theyr lordes court.

¶ Neyther can these tenaūtes sue or be sued for suche landes, in the kynges court, be wryt, or other wise, but yf they wyll in any wyse implede or sue others for suche coppe landes, they must do it by waye of playnt in ꝑ lordes court after this sorte.

☞ A. de B. queritur versus C de D. de placito terre, videlicet de vno messuagio, xl. acris terre. iiii. acris ꝓati. &c. cum pertinen. Et facit ꝓtestationem sequi querelā istam in eadem The forme of the playnt.

breuis dñi regis assile morris anteccssoris ad cõem legem vel. &c. plegii de plequdo F. G. &c

¶ Nowe although some such tenaunt haue an inheritaunce according to the custome of ỹ manor, yet in very dede they are but tenauntes at the wyll of the lorde. For as some mẽ thinke, yf the lorde wyll expel them and put thẽ forth, they haue no remedye at all, but to sue vnto theyr lorde by waye of petityon, desyryng him to be good and gracious lorde vnto them. For yf they myght haue any remedye by the lawe then shulde they nat be called (saye they) tenaũtes at the wyl of the lorde after the custome of the manor. But other men of no lesse iernynge and ppudence haue bene of contrary sentence: as lorde Bryan chiefe iustice, in ỹ tyme of kyng Edwarde the. iiii. whose opinion was alwaies that yf such tenaunt by the custome (payenge his seruyces) be ejected and put forthe by hys lorde without cause reasonable, he maye very wel bryng and mainteine an accyõ of trespas agaynst his lorde at the cõmen lawe: as appeareth termino Hilarii anno. xxi. E. iiii. Also lord Danby chiefe iustice in lykewyse, was of the same iugement: as appeareth termio Mic. an. vii. E. iiii. where he sayeth, that the tenaũte by the custome is as well inheritable to haue his lande after the custome, as is he that hathe a free holde at the common lawe, but the determinacyõ of this question I remyt to my greate maysters, which can solue the knottes and enigmaes of the lawe.

Actions of trespas.

☞ For as muche as yet still of this matter, Laus dijci certant et adhuc sub iudice lis est.

¶ Also ye shall vnder stãde, that the vsage of some

some manour is, when the tenaunt wyl surrē-
der his lāde to the vse of an other, that he shal
take a wande or rod in his hande, and deliuer
it to the steward of the court, and the stewarde
shall delyuer the same wande in name of seisin
to hym that shall take the lande: and suche a
tenaunt is called, tenaūt by the verge. Diuerse
other customes there be of surrēdryng of copy
holde landes, whiche here for tedyousnesse I
wyll omytte. And forasmuch as tenauntes by
custome of the Manour, haue by the course of
the comon lawe no free holde: therfore they be
called tenauntes of bale tenure.

Bale te-
nure.

☞ Also yf such a tenaūt leteth to ferme his
coppye holde lāde, for lenger tyme, then a twelfe
mouneth and a daye without the lordes ly-
cēce it is a forfeture of his lande to the lorde.

¶ And knowe ye that yf this tenaunt kel any
tymber, that groweth vpon the lande but one-
ly for the reperacyō of the same, this is wast &
a forfeture of his copy holde.

☞ Hytherto I haue treated of the fyrst mē-
bre of our deuisiō, that is to wyt, of chatelles.
for as I sayde, al leases for terme of yeares, &
at wyl be accompted in the lawe but as chatel-
les and be cōprysed vnder that name, saue
they be called catelles reals, where as kyne.
oxen, horses, money, plate, corne, and such lyke
be called chatell personalles. Nowe we
wyll procede to the explanicion of the
seconde membre, that is to
saye, of free holdes.

Chatells
reall and
personal

☞ A diuision of free holdes.

Free

A diuision of free holdes.

FRee holdes or franke tenenemtes a man maye haue in londrye wyles, for either he is sealed for terme of his owne lyfe, or for terme of an other mãs lyfe. Yf he be sealed for terme of his owne lyfe, eyther he hath got ten suche estate by way of purchase, or els the lawe hath intyteled him therunto. I call it by purchase, whether he commeth vnto it by hys owne bargaynynge and procuremẽt, or by the gyfte of his frende, and I call it by the operacyon and intytelynge of the lawe, when a man maryethe a woman that is an inheretres, and hathe issue by her, and she dyeth, nowe shall he haue the landes duryng his lyfe, by the course of the lawe, and shalbe called tenaunt by the curtesye of Englande.

Tenaunt by ꝑ curtesye.

☞ In lykewyse, yf a man be sealed in fee symple: or fee tayle of landes, & taketh a wife, and he dyeth, the lawe gyuethe vnto the wyfe the thyrde parte of her husbandes landes, for terme of her lyfe, and she shalbe called tenaũt in dower.

Tenaunt in dower.

☞ Tenaunt forterme of lyfe.

TEnaũt for terme of lyfe, is he ꝑ holdeth landes or tenementes for terme of his owne life, or for terme of an others life Howbe it the moste frequent, and cõmon maner of speakyng, is to cal hym that hath estate for terme of his owne lyfe, tenaunte for lyfe, & hym ꝑ hath estate for terme of an others lyfe. tenaunt pour terme dautre vie, that is to say. tenaunt for terme of an others lyfe.

¶ Ye shall note, that lyke as he that maketh the feafe is called the lessour, and he to whome the

the leafe is made, is called the lessee, so he that maketh a feffement is called the feffoure, & he to whome the feffement is made, the feffee.

¶ Also yf tenaũt for terme of lyfe, or tenaũt for terme of an other mans lyfe do waste, the lessour or he in ꝑ reuerciõ shal mayntaine very well an accion of waste agaynst hym, and shall by the same recouer treble damages. Wast.

¶ Fynally, ye shal vnderstãde that by an acte of parlyament made in the.xxvii. yeare of oure Soueraygne lorde that nowe is, kyng Henry ꝑ eight, it is enacted that no free hold, nor estate of inheritaunce shall passe nor take effecte by reason of any bargayne & sale, except ꝑ same be made by wrytynge indented, sealed, and enrolled, in one of ꝑ Kynges Maiesties courtes at West. or elles within ꝑ same county where the lande doth lye, before the custos Rotuloꝝ. and two Justices of peace and the clerke of ꝑ peace of the same countye, or two of them at lest, of which, the sayde clerke shal be one, and that such enrollement be made within syx monethes after the date of suche wrytynge. And for the enrollemente of euery suche wrytynge, where the lande comprised therin is nat aboue the yearly value of foure shillinges, they shall take two shillinges that is, twelue pence to the Justices, and xii. pẽce to the clerke. And yf the lãde be aboue ꝑ yearly value of.xl.s. then they shall take.v.s. that is.ii.s. and.vi.d. to the Justices, and.ii.s. and.vi.d. to the clerke, whiche shall enrolle and ingrosse sufficenly in parchement suche dedes and wrytynges, and at euery yeares ende he shal delyuer the same to ꝑ Custos rotulorum of the same countie, to remayne in his Anno 27. Henri. 8.

in his custody amõge other recoꝛdes of ꝯ same countie, so that the partyes resoꝛtynge thyther may se them ꝓuyded, that this extende nat to any tenemẽtes oꝛ hereditamẽtes lyeng ẅin any citie oꝛ towne coꝛpoꝛate wherin ꝯ Maires, Recoꝛders, oꝛ other officers haue authoꝛytie, oꝛ haue lawfully vsed to inrolle any euidẽces oꝛ wꝛytynges within theyꝛ ꝓcincte.

☞ Tenaunt by the curtesy.

TEnaunt by the curtesy of Englande is he that hath maryed a wyfe inheryted, & hath had issue by her, & she is deade, in this case the lawe of Englãde permytth and suffreth the husbande of suche wyfe to receiue and kepe styl al his wyues landes that she had either in fee symple, oꝛ fee tayle so longe as he lyueth. And this is by ꝯ curtesy and vsaunce of Englande, foꝛ this thynge is vsed in none other countrey noꝛ region.

¶ But in this case it is requyred ꝯ the chylde be vytall, that is to say, be boꝛne and bꝛought foꝛth into this woꝛlde alyue, & therfoꝛ the cõmon sayenge is, & hath ben, that onles ꝯ childe be herde crye, the father shall nat be tenaũt by the curtesye, foꝛ the only ꝓoue and argumente of lyfe in an infãt boꝛne is ꝯ vagite & cryenge.

☞ Ye shall furthermoꝛe vnderstande, ꝯ onlesse the husbande be in actual & reall possessiõ of his wyues landes, and sesed of them in her ryght, he shall nat be tenaunte by the curtesye after her death. And therfoꝛe yf landes discẽde to a mans wyfe, so that she is tenaunte in the lawe, and to euery mans action, yet yf the husbande haue not made an actuall entry during

coues

couerture and matrymony betwene the, he shall nat be tenaunt by curtesye, for it shall be reputed and iuged his folye and negligence that he wolde nat entre in her lyfe tyme.

¶ Otherwyse it is of aduoulõs, rent, tombs, and such other thinges, which forthwith, whẽ they discende, be in a man or woman without any entre or further ceremony of lawe.

☞ Note, that yf tenaunte by the curtesye of Englande wyll suffre or make any wast in the landes or tenementes that he so holdeth, he is punysshable therfore, by actiõ of wast brought by hym in the reuercon. Wast.

¶ Also it is to be knowen, that of thynges þ be in suspense, a man shall nat be tenaunt by þ curtesye, and therfor yf a man be tenaũt in fee simple of certayne lande, and dothe entermary with a wemen that is the seignorelle or lady of the lams and hath issue by her, & she dyeth, yet shall he nat be tenaunt by the curtesye of þ lordeshyp or seignory, by cause hym selfe is tenaunt of the lande, and therfore the lordeshyp is suspended for the tyme, for a man can nat be both Lorde and tenaunt of one thing but yf he had nat ben tenaunt of the land he shulde neuer had the lordeshyp after the deathe of his wife by the curtesye of Englande very well.

☞ Also note that of a ryght only a man shall nat be tenaunt by the curtesye, as yf a woman sole seysed in fee of landes or tenemẽtes, be dis seysed, and after take a husbãd, and they haue issue, and she dye before any reentre made, the husbande shall nat be tenaunt by the curtesye. Note.

¶ Note further þ of a reuercion, a man shall nat be tenaunt by the curtesye, as yf a woman Note.

sole

Of tenaunt in dower.

Lofe leyled of lãde in fee make a lease to .b. for terme of lyfe, after taketh a husbande and they haue issue e the dye, lyuing the lease for terme of lyfe, the husbande shal nat be tenaunte by ꝑ curtelye.

☞ Of tenaunt in dower.

TEnaunt in dower, is she that hath bene maryed to an husbãde that was during the matrymony, betwene eche, leyled of landes or tenementes in fee simple, or fee tayle, whiche is now deade and she leyled of ꝑ thirde parte of her husbandes layd landes for terme of her lyfe. For by the cõmon lawe of the lande yf the husbande be at any syme during ꝑ couerture seased laufully whether it be by purchase or by discent, eyther in fee, or in tayle, and dye, his wyfe ought to be endowed by the courte of the cõmon lawe of the thyrde fote. And in some places by an auncyent custõe she shalbe indowed of the mõtre, yea ꝑ thoughe the husband were neuer seased actually during the couerture, yet yf the landes be cast vpon hym by the lawe, so ꝑ the lawe calleth hym tenaunt to euery mans action, it suffyseth the woman to demãde her dower, for it were vnreasonable, that the negligence and slacknesse of entryng of the husbãd shulde hurte the wyues tytle.

Dower at the cõmõ lawe.

Dower by custõe

Tenaũte by ꝑ curtesye.

Otherwise it is, as is said before, of tenaũt by the curtesie, for yf landes discended to a woman couert and the husband for slouthfulnes or negligence doth nat entre in his wyues lyfe he shal nat be tenaunt by the curtesye, for by al lawes ꝑ wyfe oweth obedience and subiection to her

to her husbande and therfore she can nat cōpel him to entre, but when landes descended to the wyfe, the husbande onely hath power to entre at his pleasure.

☞ And ye shall vnderstande, that oneles the wyfe be passed the age of .ix. yeres at the tyme of her husbādes death, she shal nat be endowed by the common lawe.

¶ But it is to be knowen that a woman may by diuerse wayes estoppe & preiudice her selfe of her dower: as yf she compt any crime, for which she is atteynted of treson, murder, or felony, she gette in this case no dower, nat wtstanding she hath obteyned her pardone. A woman shal haue no dower.

☞ Also yf after the death of her husbāde she taketh a lease for terme of lyfe, of ꝑ same lādes wherof she is indowable, she loseth her dower of the same. Moreouer yf she departeth frō her husband and liueth in aduoutre with an other man, and is nat reconciled agayne to her husbnade wout coercio of the ecclesiastical power, she leseth her dower after her husbandes death. She shalbe also barred of her dower if she wil withholde from the heyre, the charters, & euidence, cōcernyng that lande wher of she asketh dower: But none other, saue the heyre, can wtholde her dower for this cause.

¶ It oughte to nat be vnknowē also of what thynges she may demaūde dower, and of what thynges nat. Of lādes, messuages, aduoulsōs, rent charges, rēt seruyces, or segnories ingrosse or otherwyse, of vyllaynes, of cōmons certayne, of estouers certayne, of myles, and offyces, or of the profyte of them, she is dowable. But of cōmons, and estouers sans nombre, also no dower.

so of annuities, of homage, of thynges of pleasure, as of seruice of paymēt of roses, and semblable, she shall nat be indowed.

☞ There be yet two other kyndes of dower the one is called dowment exassensu patris, ꝑ ie to saye, by thassent of the father, & the other is called dowmēt de la plus beale partie. That is to saye, of the fayrest parte.

Dowmente ex assensu patris.

¶ Dowment ex assensu partris, is whan the father is seased of landes in fee simple, and his sone whiche is heyre apparaunt, endoweth his wyfe at the churche doze: whā he his espoused of parcel of his fathers landes, with the assent of his father in wrytynge tellifyenge the same assente yf in this case her husbāde dye, she may forthwith entre into the landes, so assigned vnto her without further appoyntynge of proces of lawe, although the father of her sayde husbande be yet alyue and in actuall possession of the lande. But yf she thus do, and take her to this endowmēt at the church doze: she can nat haue her dower also by the cōmon lawe of the thyrde, parte of all her husbādes landes, or any percell of them, howbeit yf she wyll refuse this assignement made vnto her at the churche doze, and demaunde dower at the common lawe, she maye so do very well.

Dowmente ad hostium ecclesie.

☞ A man maye also endowe his wyfe at the tyme of thespousayles, of his owne landes, the which he hath in his owne possession, and that dower is called dower, ad ostium ecclesie that is to saye, at the churche doze.

Dowmēt de la plus beale

¶ Dowment De la plus beale, that is to say, dowmēt of the fayrest parte shalbe in this case Whā a mā is seased of lāds, which he holdeth

at an

of an other man by knightes seruyce, and of other landes whiche be of socage tenure, & hath issue, whiche is within the age of .xiiii. yeres & oye, and the Lorde of whom the lande is holden by knightes seruyce, entreth into the land holden of hym, and the mother of the chylde entreth in to the socage tenure as gardeyne in socage, yf in this case the woman wyll bryng a wrytte of dower agaynst the lorde whiche is gardeyne in chyualrye, he may plede the spercyal matter and shewe, how she as gardeyne in socage hathe so muche lande and therupon pray the court that she maye be suffred to endowe her selfe of so muche lande, beynge in her owne custodye, as amounteth to the thyrde part of the hole landes. ☞ And than the iugement shalbe, þ the gardeyne in chyualry shal retayne the lande holden of hym quyte from the woman durynge the nonage of the warde. After whiche iugemente and sentence gyuen, she maye go, and in presence of her neyghbours, and endowe her selfe of þ best part of that whiche is in her custody, amountynge to the thyrde part of the hole, and then is she called tenaunt in dower de la plus beale.

¶ Fynally ye shall vnderstande, that by a statute made in the .xxvii. yere of our most dreade soueraygne Lorde kyng Henry the eyght, it is enacted, that where dyuerse persones haue estates made to them and to theyr wyues, and to the heyres of the husbande, or to the husbande and wyfe and theyres of theyr two bodyes begotten, or the heyres of one of theyr bodyes, or for terme of both or one of theyr lyues, or to any other persons and theyr heyres to the vse of the husbande & wyfe or to the wyfe alone, for

Anno. 27 Henri. 8. Cap. 10.

her ioynture: in euery such case the womā shal nat be suffred to demaunde any dowry of the relydue of her husbandes landes by whom she hath her ioynter, agaynst any tenaunt of ꝑ lāde But in case she hath no suche ioynter: thē may she demaunde her dowry after the course of the cōmon lawe. Prouyded neuertheles, ꝑ yf such womē be lawfully expulsed from theyr ioynter or any parte thereof without fraude or couyn: then shal they be endowed of ꝑ residue of their husbādes landes for as much as the lādes shal amoūt vnto, out of which they where so expulsed and put forth.

☞ Prouyded also, that yf landes or tenemētes be assured to any womā after maryage for terme of lyfe or otherwyse in ioynture (except it be by acte of parlyament) and the wyfe ouer lyue her husbande in whose tyme the ioynture was made: in this case ꝑ wife may refuse ꝑ lādes so appoynted vnto her in ioynture, & haue her dower at ꝑ cōmon law, of such lādes as her husbande was sealed of, at any tyme durynge the couerture.

¶ Also yf the husbande commyttethe treason murdre, or felonye for whiche he is attaynted, the wyfe shall nat haue her dower.

☞ And note that yf the husbande enter into relygion, and is professed, the heyre shall enter into the lande, but the wyfe gettethe no dower tyll the husbande dyeth. M. 32. E. 1.

¶ And lykwise yf a mā sealed of lādes taketh a wyfe that is an Alyen borne & dyeth, she shall nat be endowed, except she be made Denizyn by acte of perliamēt. T. 3. H. 6. And note that whē the wyfe bryng a wrytte of dower, & recouere

the

her ryghte she shall recouere no damages, but where her husbande dyed seased of the landes recouered. Damages.

¶ A diuision of inheritaũce.

WEther I haue spoken of free holdes, nowe it remaynethe to treate of inheritaunces, nat that inheritaunces, be no free holdes, for they be free holdes also, but of the other estates of whiche I haue here tofore treated be onely free holdes, and of no hygher nature where as a state of inheritaunce, although it be a freeholde in dede, yet it is nat to be called by name, syth it is after more excellent and greater estate. But ye shall vnderstande, that of inheritaunces some be of more amplytude and excellency thẽ other some be, as that inheritaunce which is pure symple, and without symptaciõ of what heyres, which kynde of inheritaunce is called fee symple. But when I make a symptacyon of what heyres, then is it called fee tayle of whiche also be two sortes, as here after more at large shalbe declared. Now therfore the nature of fee simple is set forth wt our accustomed cõpendyousnesse. Fee tayle

☞ Of fee simple.

FEe simple is (as I sayd) the most ample and large inheritaũce that can be in this Realme dyuised or exc[illegible]ate, as to whiche a man hath to hym & to his heyres symple without any further symptacion, for whether they be of his owne bodye begotten or nat, so that they be the next of his kynne, and within the degrees it sucseyleth.

¶ So thẽ, tenaũt in fee simple is he that hath

lãdes or tenemẽtes (whether it be by purchase or by discent) to him and to his heyres or assignes for euer. For yf a man wyll purchase lãdes in fee simple, he must nedes haue these wordes (his heyres) in his purchase, for these be ꝑ onely wordes that make the estate of inheritaunce. Therfore yf landes be gyuen to a man for euer and no mencion be made of his heyres: he hath an estate but for terme of his lyfe, because these wordes (his heyres) do lacke.

Deuise. ☞ Yet neuertheles, yf a man by his testamẽt doth deuise landes to an other in such place or case where the custome or lawe wyl serue so to do, thoughe he maketh no mencyon of heyres, but sayeth that he bequetheth to such a perſõ suche landes, to haue and to holde to hym and to his assignes for euermore: here a state of inheritaũce doth passe, for in testamentes ꝑ wyll and intent of the testatoure is to be pondered, & not the formal & prescripte wordes of ꝑ law.

¶ Also these termes in the lawe, franke mary age, and franke almoine, ꝑ is to say, free mary age and free almose do include in them wordes of inheritaunce

¶ And therfore yf I gyue landes to a man & my doughter in franke marryage without further addicion or mencion of heyres, this is an estate of inheritaunce, as we shall hereafter declare more plẽtyously. In lyke wyse it is of landes gyuen to an house ecclesiasticall in pure & franke almes. Moreouer yf landes be gyuen to a man and to his bloude, or vnto hym & to hys sede, he hath in both cases a state of inheritũce, for in the lasse he hath a fee tayle, and in the other a fee simple. For this worde sede, & bloude

Donũ semini & sãguini suo quid sit.

and

and such lyke to implye wordes of inheritaūce.

¶ Also yt landes be gyuen to a mā and to his heyres males, or females, he hath by this gyfte a fee simple, bicause it is nat expressed of what body the issue shall come. T.9.H 6.

¶ But nowe it is to be sene who be sayde a mans heyres in ỳ lawe. Ye shal therfore know that my brother or syster by the halfe bloude, that is to wyte, by the fathers syde, and nat by the mothers, or contrarywyse by the mothers, and nat by ỳ fathers, shal neuer be myne heyre nor none that come of them. The halfe bloude.

¶ Neyther my basterd can be myne heyre, nor myne owne naturall father nor mother nor grandfather, nor grandmother, can be myne heyre. For it is a principle and groūde in ỳ law that inheritaunce maye lynially descende, but ascende it may nat. And therfore yf I haue landes in fee simple and dye without issue of my bodye, my father can nat be myne heyre, but my fathers brother or syster shall, and then yf my vncle or aunt dye sealed without issue, my father shal haue the lādes as heyre to my vncle and nat as heyre to me. for that can nat be. A basterd shalbe no heyre. A groūde of ỳ law.

But it may go from me to mine vncle or aunte well ynough, for that is nat called a lyniall ascension but a collaterall discent.

¶ Also ye shal vnderstāde that lynial dyscent is when the discente is conueyed in the same lyne of the hole bloude, as graūdfather, father and sonne, and so towne. And collaterall discēt is out of an other braunch, from a boue of the hole bloude, as the graundfathers brother or fathers brother and so dyscendynge. Lyniall & collateral discent.

¶ And ye shall note, that by the cōmon lawe

realme, the eldest sonne shal haue the hole inhe ritaũce, & after him if he haue no issue, ỹ secõd sonne, and so forth. And yf I haue no sonnes but doughters, than shal all the doughters to-
Coparce ners. gither iherite, whiche be called copceners, but if I haue no issue at al, neither sõnes ne doughters thẽ shal my eldest brother i heritage succede me, but & yf I haue no brother, thẽ my systers yf I haue anye, yf nat, my vncle by my fathers syde, yf the lãdes be myne owne purchase. And to be shorte, yf there by none in syke, of my fathers syde, it shall go to my mothers syde, and if there can be foũd no heyre neither by fathers syde, nor yet by mothers, then shall it reuerte &
Eschete. eschete, as they call it, to the lorde of whome it was holdẽ, for euery lande must nedes be holde of some lorde, as shalbe herafter shewed. But yf landes descẽde vnto me by my mothers side, than yf I fayle of issue, the landes shal discẽde only to my heyres of my mothers syde, & neuer to myne heyres of my fathers syde: as on ỹ cõtrary syde, yf I haue landes or any hereditamẽtes by discẽt from my father or his bloud, they shal neuer discẽde to my heyres by my mothers syde.

Diuers syte. ☞ And thus ye se a greate difference in this behalfe, betwene purchased landes, and landes which discende from my auncestoure.

¶ Yf there be thre sõnes, & the myddle sonne purchaseth landes and dye without issue, the eldest shall haue the landes & nat the yongest.

I groũde of ỹ law. ☞ Also it is a principle in our law, that none can be myne heyre of landes that I holde in fee simple, onles he be myne heyre by ỹ hole bloud that is to say, both by father & mother, for yf a man

a man hath iſſue two or thre ſonnes by ſondry wyues, and the eldeſt purchaſeth landes in fee and dyethe without iſſue, his halfe brethren I meane thoſe that be nat his brethren both by ꝑ fathers ſyde, and mothers ſyde, ſhall nat haue the lande, but it ſhall go to his vncle.

¶ Lykewyſe yf a man hath be his fyrſt wyfe a ſonne & a doughter, and by his ſeconde wyfe an other ſonne, and the ſonne by the fyrſt wyfe purchaſeth lãdes in fee ſimple and dieth withe out iſſue: the fyſter german, that is to ſay, both by fathers ſyde & mothers ſhall haue the lãdes by diſcente as heyre to her brother, and nat the yõger brother, for aſmuch as ꝑ yõger, brother can nat in thꝭ caſe be heyre to his elder brother becauſe he is no brother germayne vnto hym. Otherwyſe it is of lãdes or other hereditamẽtes entayled as ſhalbe hereafter ſpecified.

☞ Alſo yf a man be ſeyſed of landes in fee ſymple, and hath iſſue, a ſonne and a doughter by one wyfe, and after the deathe of his fyrſte wyfe a ſonne by an other wyfe, and dyeth, and the eldeſt ſonne entreth into the landes, and after he dyeth without lawfull iſſue of his body, the doughter ſhall haue the landes and nat the yongeſt ſonne, & yet the yongeſt ſonne is heyre to his father, but he is nat ſo vnto his brother But yf in this caſe the eldeſt ſonne had nat entred, after the death of his father but had dyed before any entry made by him, then ſhal nat the ſiſter germaine ẽtre, but ꝑ yõger brother is heyre to his father, becauſe the eldeſt brother was neuer in actual poſſeſſion, whiche his requiſite to ꝑ perſon ꝑ claymeth to be heyre collaterally.

¶ But to the lynial heyres, it ſuffyſeth that ꝑ

auncestour shulde haue bene heyre yf he had lyued, I meane as thus. A man is seased of lãdes and hathe issue a sonne and a doughter by one wyfe, and afterwarde a sonne by an other, he dyeth, and after his deathe the eldest sonne entreth nat but dyeth without issue before he can make actuall entre, here in this case his syster shal nat haue ꝑ landes as heyre to her brother, because her brother was nat actualy possessed, but ꝑ yonger brother shall haue thẽ as heyre to his father. Yet yf theldest sonne in ꝑ case had left behinde hym issue of his bodye, whether it had bene sõne, or doughter, this issue nat wtstãding, ꝑ the father of ꝑ issue was neuer possessed either actualie, or ī ꝑ law, shal haue ꝑ lãdes, & shal cõuey his dissẽt frõ his father, the cause hereof is thꝛ, ꝑ ꝑ sõne or doughter is liniall heire wher as ꝑ brother, sister, vncle ante, &c. be heyres collateral, & so ye shal obserue a diuersitie.

Diuersyte.

☞ I call an actual possessiõ, when a man entreth in dede into landes whiche be to him discended, but a possession in lawe, is called when landes be descended to a persõ, and he hath nat yet realye, and actualye entred into them. For natwithstãdyng that he is in actuall possessiõ, yet he is possessed in the lawe, that is to say, in the eye and consyderacion of the lawe he is demed to be possessed, forasmuch as he is tenaũt to euery mans accion that wyll sue for the said landes, for els assuredly there shuld insue an intollerable inconuenience, as we shal more copyously open in an other place.

Heredi-tas ẽd sit

¶ Ye shal furthermore vnderstande that this worde inheritaũce is nat only to be accõmdate and aplyed to that which commeth by discent or succ-

or succession frō a mās aūcestours or p̄decessours but also to euery purchase in fe sīple, or fetayle.

☞ And note that a man can haue no larger, or greter estate then fee simple.

¶ Of fee tayle.

YE shal vnderstād, that before a certaine Statute called ꝑ Statute of Westm. secōde, there was no state tayle but al was fee simple, eyther purely that is to saye, without condicyon or at the lest way condycyonally as apeareth by the pretence of the sayde statute, but nowe sythens the promulgating of ꝑ statute, dyuers formes of state tayles haue sysen. West. 2. Cap. 1. Dyuisiō.

¶ Fee taile is when it is prescribed and lymited in the gift, what sorte of heyres & by whōe engendred shall inherite.

☞ As for example, I gyue landes to a man and to his heyres and go no further, this is fee simple: but yf I make a lymitacion, and adde of his bodye begotten, nowe is it fee tayle, that is to say, a fee or inheritaunce lympted, prescribed, determinate, or assigned.

¶ So that yf I gyue landes to a man and to his heyres, he hathe fee simple, but yf I gyue landes to him & to his heyres of his bodye lawfully begotten, he hathe but a fee tayle, forasmuch as I appoynte, lympte, prescribe, and expresse what heyres they shalbe and for lacke of such heyres, the gyft shalbe expyred and worne out, and the landes shall reuerte agayne to the gyuer or his heyres.

☞ But ye must obserue and note that there be two kyndes of fee tayle. There is a general tayle,

tayle, and there is specyall tayle.

Generall tayle.

¶ Fee tayle generall is as where landes be gyuen to a man and to his heyres of his bodye begotten, without any mencyonynge and expressynge by what woman they are to be gotten. And therfore yf a man be tenaũt in the generall tayle of landes, & taketh a wyfe and hath issue by her, and she dyeth and afterwarde he taketh an other wyfe, of whõe he hath also other issue here eyther of these issues is inheritable to this lande entayled. But yf I expresse in the gyfte by what woman the heyres shalbe procreate & ingendred, then is it an especyal tayle, as for example to make the thynge playne, yf landes be gyuen to a man and to the heyres of his bodye lawfullye begotten by Margarete his wyfe. this is an especyall tayle, for the issue of him begotten by an other woman, shal neuer inherite by force and vertu of the tayle. Lykewyse it is, yf landes be gyuen to a woman & to the heyres of her bodye lawfullye begotten (and shew not by what man) this is a generall tayle, but yf I go forth and saye by suche man her husbande, then is it an especyall tayle.

Especyal tayle.

☞ Also yf I gyue lãdes to a man and to his wyfe, & to the heyres of their two bodyes lawfullye begotten: this is an especyall tayle, as well in the husbande as in the wyfe.

¶ Semblable it is, yf a man gyueth landes to an other mã with his doughter, or kynswomã in franke marryage, this worde (franke maryage) employeth a state tayle especyally, and in this case as well the man as the woman hathe estate in the specyall tayle.

Franke mariage.

☞ But yf I gyue landes to a man & to such a wo-

a woman, and to his heyres that he shal beget of her, here the woman hath estate but for terme of her lyfe, and the husbande an estate in ꝑ especyalle tayle. And lykewyse it is in ꝑ womans behalfe, as yf I gyue landes to a man & to his wyfe, and to her heyres of the bodye of her sayd husband engendred, he hath an estate but for terme of lyfe, & she an estate in the especyall tayle. But in both cases, yf I had sayde to ꝑ heyres & nat his or her heyres, then shulde eyther of them haue had an estate in the especiall tayle, bycause this worde heyres is as well referred to the one as to the other.

¶ Ye shal also vnderstande, that yf landes be gyuen to a man, and to the heyres males of his bodye, this is a state tayle, and in this case the heyre female shall neuer inherite. Diuersite by heyres males.

☞ Also yf a man hathe issue and dyeth, and lãdes be gyuẽ to hi & to his heyres of his bodie begotten, this is a good estate talle, although the father, were deade at the tyme of ꝑ gyfte.

¶ Fynally it is to be noted, ꝑ of landes which a man hathe in fee simple the possession of the brother shall cause the syster germayne that is to saye, the syster both by the fathers syde and mothers, to inherite, & in this case the brother by the halfe bloude shal nat inherite, as here to fore was sayd, but of landes which be intailed otherwyse it is. Therfore yf a man be sealed of landes in the generall tayle, and hath issue by his fyrst wife a sonne and a doughter, and also a sonne afterwarde by an other wife, & dyeth, and the eldeste sonne entrethe into the landes and after dyeth, the syster germayne to the eldest sonne shal nat haue ꝑ landes but the yõger

brother

brother of the halfe bloud vpcause, who soeuer shall inherite landes or any other hereditamentes in tayle, must clayme them as next and immediatly heyre, nat to him þ dyeth last seased of þ landes but to him whome the landes were fyrste gyuen vnto, which in the case before remembred, is the sonne and nat the doughter.

Dyuersite. ¶ Thus ye shall marke a greate diuersitie betwene the forme of succession in the landes of fee symple, and the forme in fee tayle.

☞ Tenaunt after possibilitie of issue extincte.

When landes, tenementes or other hereditamentes be gyuen to a man and to his wyfe, and to þ heires of their two bodies lawfullye begotten yf in thys case eyther of them chaunce to dye before they haue issue betwene them, he or she that ouerlyueth, is styll tenaunt in tayle, but without all possibilitie of any issue þ can be heyre to these landes or hereditamentes thus intailed, and for this cause he or she thus ouerlyuynge is called tenaunt after possibilitie of issue extincte, for ī such a tenaūt is all possibilitie of issue that may be inheritable to these landes by force of the gyfte in taile vtterly extincte and quenched and by his or her death the state tayle shall expyre, cease, and be abolyshed fore euer, and shal reuerte and turne agayne to þ gyuer or donour frō whēce it cāe.

Dyspunyshable of Wast. ¶ Yet forasmuche as this tenaunt after possibilitie of issue, had ones an inheritaunce in hi he shall nat be punyshed by an action of wast, though

though he maketh neuer so muche wast in the landes and tenementes where as yet in effecte he is but a tenaunte for terme of lyfe.

☞ But yf this tenaunt dothe alienate, in fee suche landes he in the reuercion maye enter for the forfeture. Forfeture.

¶ And this of estates at this present tyme shall suffyce. But to the intent that ye may the more easyly cõprehende all the memoires of the deuision of possessions and estates which men may haue in landes tenementes and other herid tamentes, it shal not be cupll done to set forth as it were in a table before your eyen the diuision therof which is this.

Possession of.

- After ye cõmon lawe.
  - Frank tenit.
    - Fee simple.
    - State of inheritaũce.
      - Generall.
      - Speciall.
    - Fee tayle.
      - After pos.
      - Curtesye of Englande
      - Dowre.
    - Frãk tenit. oncly.
      - Terme of lyfe.
      - Terme of others lyfe.
  - Chatel
    - Reall.
      - Whiche is diuided in lyke maner as franketenement by the common lawe.
      - Terme of yeres.
      - Warde of landes.
    - Personall. At wyll.
      - All goodes moueables.
- After ye custõe.

Of parceners or coheyres.

HEtherunto I haue made a cõpendious and shorte declaracion of estates of all sortes. But where I sayde, that amõg systers there is no prerogatyue or preminence cõcernyng the inheretyng of theyr auncestours landes, but that they shalbe al togyther inheritours. and make as it were but one heyre: it is expedient to make a further declaracion & processe in this behalfe, and to shewe how and in what maner this partition shall be made.

Diuision

¶ But ye shall vnderstande that there be, beside parceners at the cõmon lawe, whiche be only systers, also parceners by custome, which is amonges brothers contrary to the course of the cõmon lawe, and this custome is in summe

parceners at the cõmon law.

parceners by custõe.

places of Kente, & in other places where lãdes & tenementes be of the tenure of Gauelkynde.

☞ Ye shal therfore knowe that when a man is seased of lande in fee simple or fee tayle and hath no issue but doughters, and dye, and the doughters do entre in to the landes thus descẽded vnto them, nowe they be called parceners, or coheyres, and by a writ called: De partitiõe faciẽda brought by one of them agaynst the others, they shalbe constrayned by ỹ lawe to suffre an egall partition to be made of the landes betwene them.

Writt de partitione faciẽda.

Partiõ in dyuers maners.

¶ Nowe partition maye be made in sundry wayes. One way is when they them selues do make partition betwene them of the hole heritage and do agre vnto the same, and do entre euery one into her parte so alotted vnto her.

1.

☞ An other waye is whan by al theyr agreement and consent one cõmon frende doth make the partitiõ. In which case ỹ eldest syster shall haue

2.

haue the fyrst election, and after her the secõde syster, and so forth. But if they agree þ theie 3.
dest syster shal make the particyõ, and she maketh it, then theldest shall nat chose fyrste, but shall suffre all her systers to chose before her, as it is thought.

¶ There is also another forme of partycion 4.
whiche is egallye to deuide þ landes into so many partes as there be coheyres or pceners, and to wryte euery parte so deuided in a seuerall scroule of paper, & to put þ sayde scroulles in to a bonet, or to enclose them seuerally in balles of waxe, and thã þ eldest syster to chose which balle she wyll, or to put her hande in to the bonet and to take a scrouile, and to holde her to her chaunce and allotmẽt, and so consequently euery syster after other.

¶ And ye shall note, þ particion by agrement may as well be made by nude and bare wordes without wrytynge as by wrytynge: Nota.

¶ And yf any of the parceners wyll nat suffre any pticiõ to be made thã may þ other þ wolde haue partycion, purchase a wryte called De pticione faciẽda, agaynst thẽ that refuse partycion to cõpell the same to suffer pertycion to be made accordyngly, and thã by the iudgemẽt of the courte, the shyryffe by þ serement & othe of tweine men shall make partycion by twene thẽ and shall assigne to eche syster her porcyon, as he shall thynke good, without gyuynge any election or choyse to the eldest. Wrytte de pticione faciẽda.

¶ And yf two Manours or meeses happẽ to descẽde to two systers, & the maners be nat of egall value, thã may she, to whom the lesse maner or meese is allotted, haue assigned vnto her

a rent proporcionably cut of the other manor for the whiche rente she and her heyres maye

Distres of cõmen ryght, distreyne of comen ryght, though they haue no wryttynge thereof.

¶ Finally, ye shall vnderstande, that yf a man be seased of landes in fee simple, and hath issue two doughters, and gyueth with one of hys doughters to another mã that shall mary her, the thyrde or fourte parte of his land in franke mariage and dyeth, yf in this case ꝑ doughter that is i this wyse bestowed & auaunced, wyll haue her porcyon of her fathers heritage, she must put her lande gyuẽ vnto her in frãke ma-

Hoch pot ryage in hoch pot newe agayne. I meane she must be contẽted to suffre her sayde landes to be commixte & mengled with the other landes of which her father dyed seased in fee simple, so ꝑ an equall diuision may be made of the hole, or elles she shall haue no part of those landes of whiche her father dyed seased. But if her father had made vnto her but a cõmon gyfte in tayle, or a feffemẽt in fee, she shulde nat nede to put her landes in hochepot, but may very well kepe & retayne them styll, & also haue as good part of ꝑ rest of the landes of which her father dyed seased, as her other syster or systers haue.

Franke mariage. For a gyfte in frãke maryage, is accompted ꝑ most free and most lyberall gyfte ꝑ can be, and that gyfte which the lawe iudgeth to be onely for the aduauncement and bestowynge of the doughter, where as feffemẽtes in fee simple & also comon gyftes in tayle be accostomably for other causes, and for the aduaũtage rather of the gyuour, or feffour then of the taker.

¶ Also yf parceners make particion of landes

beyng

beyng within age that partycion is voyde.

¶ And yf parceners in fee ſimple make pticiõ & ỳ part of the one ys bett thẽ the other beig of ful age of.xxi yeres thẽ the partition is good & can nat be deſeted but if it be of landes in fee tayle the one part beynge better thẽ the other that partition may be deſeted by theyr heyres.

☞ Of Joyntenauntes

HYtherunto verylye haue we ſpokẽ of coheyres called Parceners at ỳ comon law which as is hertofore declared do come to lãdes and other hereditamentes ioyntlye by the courſe operation and acte of the law. Nowe ſhall we ſpeke ſomwhat of thẽ which eyther ioyntly or ſeucrally come to landes tenemẽtes or other hereditamẽtes by theyr owne purchaſe acte, procuremẽt, & worckynge. And of theſe, they that come to thẽ by ioynt title, way or colour be called ioyntenaũtes, but they that come by ſeuerall titles, wayes, or colours to landes or tenementes, be named tenauntes in common. Tenãtes in cõmon

¶ So then, yf a man beynge ſeyſed of landes or tenemẽtes or other hereditamẽtes ſhal therof infeffe two, thre, foure, or more, to haue and to holde to them in fee ſimple, fee tayle, or for terme of theyr lyues, or for terme of anothers lyfe, theſe perſonnes ſo infeffed and ſealed be called ioyntenauntes. Alſo yf two or moo do expell and deſſeiſe another man of any landes or tenementes to theyr owne behouſe and vſe theſe diſſeiſours and wronge doers are nowe

become ioyntenauntes, bycause by theyr owne acte they come ioyntly to this lande. But if they do disseise another man to ꝑ vse onely of one of thē, in this case they be nat ioyntenauntes but he to whose vse the disseisin is made, is tenaunt alone of the same, and the others haue nothyng in the tenaūcie, but be called aydours or coadiutours to the disseisin.

Disseisi. ¶ And ye shall vnderstande, ꝑ a disseisin is ꝑperly, where a man entreth into any landes or tenemētes there where his entre is nat lawfull, and putteth out hym whyche hathe the freholde of the same

Survi-uour ta-keth pla-ce. ¶ And ye shall furthermore knowe, that the nature of ioyntenauncie is, that he which suruiueth and ouerlyueth the other, shall haue to him selfe alone the hole & entier tenauncie accordynge to that estate which he shulde haue had yf the ioynture had bene cōtynued, as (for exemple) three Ioyntenauntes be of landes in fee simple, and the one hath issue and dyeth, in this case the two which do ouerlyue theyr fellowe, shall haue the hole landes betwene them, and the issue of hi that is departed getteth nothynge. And yf the secende ioyntenaūt hath also issue & dye, ꝑ thyrde which hath ouerlyued thē both, shall now haue & enioy the hole to hi and to his heyres for euermore.

Dyuer-site. ¶ But otherwyse it is of coheyres which in our lawe be called parceners. For yf there be. iii. such coheyres or parceners, and before any partycion made, the one hath issue a son or a doughter and dyeth, his porcyon shall descende and fall to his chylde, and shall nat runne amōgest the other ioyntheyres or coparceners.

Howbeit

Howbeit yf ſuch parcener or coheyre had dyed without iſſue, then ſhulde his porcion haue deſcẽded to his coheyres. But howe nat by force of ſuruiuer or ouerlyuyng which in Latyn is called ius accreſcendi, but by very diſcent, for where any of the coheyres dye without iſſue who cã be heire to hĩ or her ſo dieg, but ẏ other coheire or ẏ reſt of ẏ coheires if there be many.

¶ And lyke as this ryght of ſuruiuer or ouerlyuynge holdeth place amonges ioyntenaũtes of landes and tenemẽtes: ſo in lyke maner it holdeth place amonges thẽ which haue ioynt eſtate or poſſeſſion w̃ others of chatelles whether they be reall or perſonall. As (for example) yf a leaſe of landes or tenementes be made to manye for terme of certaine yeres, ẏ ouerleuer or ouerlyuers ſhall haue the hole durynge the terme by force of the ſame lees. So of chatelles perſonall, yf an horſe, oxe, grayne or other ſuch pſonal chatel be gyuẽ to manye, he which ouerlyueth ſhal haue the ſame alone In lẽbla-ble wyſe it is of dettes and dutyes. For yf an obligation be made to manye for one det, he ẏ ouerlyueth ſhal haue ẏ hole dutye or det, & ſo of other couenauntes and contractes.

Joyntenauntes of real or perſonal goodes.

¶ Alſo ſome Joyntenauntes may be whiche may haue ioynt eſtate and be ioyntenaũtes for terme of theyr lyues, and yet haue ſeuerall inheryta̅nces. As where landes be gyuẽ to two mẽ & to the heyres of theyr two bodyes engẽdred, in this caſe, theſe two perſonnes haue ioynt eſtate for time of theyr two lyues. And yet they haue ſeuerall inheritaũces. For yf ẏ one haue iſſue and dye, ẏ other that ſuruyueth ſhal haue all by force of ẏ ſuruiuour for terme e

Joyntenaunt of ſeuerall inheryta̅tes.

of his lyke. And yf he ꝑ ſuruiueth hath alſo iſſue & dye, than the iſſue of ꝑ one ſhall haue the halfe of the landes and ꝑ iſſue of the other ſhal haue thother halfe, and they ſhall holde ꝑ lande betwene thē in commune & ſhall nat be ioynte-
Tenauntes in cōmon. nauntes but tenauntes in cōmon and the cauſe and reaſon why ſuch donees i ſuch caſes haue ioynt eſtate for terme of theyr lyues is, for that at ꝑ begynnyng the lādes were gyuē to thē two which wordes without more ſayng, make a ioynt eſtate to thē for tme of theyr lyues. For yf a man wyl let lāde to another by dede or without dede nat makynge mēcyon what eſtate he hath & of this maketh lyuery of ſeiſin in thys caſe the leſſee ſhall haue a ſtate for terme of his lyfe. And yf he haue no lyuerye of ſeiſi he ys but tenaūt at wyl. And ſo foraſmuch as ꝑ lādes were gyuē vnto them, they haue a ioynt eſtate for terme of theyr lyues. But ꝑ cauſe why they haue ſeuerall inheritaunce is this, for that they can nat by poſſibilitie haue an heyre betwene thē engēdred as a man & a woman may haue wherfore the law wyll that theyr eſtate & their inheritaunce ſhalbe ſuche as reaſon wyll after the forme and effecte of the wordes of ꝑ gyfte, and that is to the heyres that ꝑ one engēdreth of his bodye by any of his wiues, & to ꝑ heyres that the other engēdreth of his bodye by any of his wyues. So it behoueth by neceſſitie of reaſon, that they haue ſeuerall inheritaunces. And in ſuch caſe yf ꝑ iſſue of one of thē aft the deth of thē both doth dye, ſo that he hath no iſſue aſ lyue of his body engendred: then the donour which gaue the landes or his heyre maye entre in the halfe as in his reuerſion though ꝑ other

hath

hath issue alyue. And ꝯ cause is ꝯ forasmuche as the inheritaunces be seuerall, therfore ꝯ reuercion i the law is seuered, and the suruiuour of the issue of the other shall holde no place to haue ꝯ hole. And as it is sayde of males in the same maner it is where lãde is gyuẽ to two females & to ꝯ heirs of their two bodyes begottẽ.

Suruiuour holdethe no place.

¶ Also yf landes be gyuen to two and to the heyres of one of thẽ, this is a good joyntenauncie, & the one hath a fee holde, and the other hath a fee simple & if he which hath fee simple dye he ꝯ hath the freholde shal haue ꝯ hole by ꝯ suruyuoure for terme of his lyfe.

¶ And yf these two joyntenauntes joyne in a gyfte in tayle to a straunger reseruyng a rẽt to hym that hath a state but for his lyfe thys reseruacion is voyde to make a tenure. Lykewyse it is where tenemẽtes be gyuen to two and to the heyres of ꝯ body of one of them engendred the one hath freholde & the other fee tayle.

¶ Note, yf two joyntenauntes be seased of estate of fee simple and the one graunteth a rẽt charge by his dede to another out of ꝯ whiche to him belongeth, in this case durynge the lyfe of the graumtour the rent charge is good and effectuall, but after his decease the rẽt charge is voyde, as to charge the landes for he ꝯ hath the lande by the suruyuour shall holde all the lande discharged, the cause is for that he that suruyueth, claymeth to haue ꝯ lãde by the survyuour and nat by discent of his felowe.

rẽt charg graunted by a joyntenaunt.

¶ But otherwyse it is of pceners or coheyres, for if ther be two pceners i fee syples before any ytycion made, the one chargeth ꝯ, ꝯ to hi belongeth by his dede of a rent charge and dyeth wh-

Dyuers syte.

out issue, here that which to hym belongeth discendeth to the other parcener and in this case the other peener shal holde ꝑ lande charged by cause he cõmeth to ꝑ halfe by discẽt as heyre.

Deuise by testament.

¶ Also ꝑ there be two ioyntenaũtes in fee simple within one borough where the landes & tenemẽtes within ꝑ same borough be deuisible by testamẽt, ꝑ the one of ꝑ sayd ioyntenaũtes deuyse that whiche to him belongeth, by testament, & dye, this deuise and legation is voyde. And the cause is for that, ꝑ no deuyse may take effecte tyll after the deth of ꝑ testatour whiche bequethed & deuysed the same, and by his deth all the lande incontinent commeth by the lawe to his felowe that suruiueth by the suruiuour which neyther claymeth nor hath any thyng in the lande by the deuyse but in his owne ryght, by the suruiuour after the course of the lawe & for this cause such deuyse is voyde.

A groũde in ꝑ law.

¶ But otherwyse it is of parceners sealed of tenemẽtes deuisable in such case of deuyse for the cause aboue remẽbred. Also it is commõly sayde that euery ioyntenaunt is sealed of the lande that he holdeth ioyntlye par my & par tout, that is, through out & by all. And this is as much to say, that he is sealed by euery parcell and by all, which sayenge is true for in euery parcell and parte and through out all the landes & tenementes he is ioyntly sealed with his felowe. And therfore if the one ioyntenaũt make a feffemẽt to his cõpanion, this is voyde

Dyuersite.

bycause he can make no lyuery of season to hi. Also ꝑ two ioyntenaũtes be sealed of certaine landes in fee simple & thone letteth that, ꝑ to hi belongeth to a straũger for terme of, xl. yeres &

dyeth

dyeth within the terme, in this case after hys deth the lessee may entre & occuppe the halfe to hym letten durynge the sayd terme thought þ lessee neuer had possession of it in the lyke of þ lessour by force of the lees. And the difference betwene the case of the graũt of a rent charge and this case is this that in þ graunt of a rent charge by a ioyntenaunt the landes or tenemẽtes abyde all way as they were afore without that, þ any hath ryght to haue parcell of the tenementes but thẽ selfe and the tenementes abyde i such plyte as they were before þ charge But where a lees is made by a ioyntenaũt to another for terme of yeres, incõtynent by force of the lees the lessee hath ryght in þ same lãde that is to say, of all that, that to his lessour belongeth by force of þ same lees durig his time. And yf the lessour in this case dyeth the other ioyntenaunt shall haue the rent or terme durynge the sayde terme because þ reuersion ys cumme to hym by suruiuour. Fynally if a ioynt estate be made of lande to the husbande and wyfe and to the thyrde person, in this case the husbande & the wyfe haue nat in the lawe in theyr ryght but the halfe. and the thyrde person shall haue as much as the husbãde & the wyfe haue that is to say, the other halfe.

Diuerlie bytwene a grãt of a rẽt and a leale.

¶ And the cause is for that the husbande and wyfe be but as one person in the eye of þ lawe, and it is here in lyke case as yf estate be made to two ioyntenauntes where the one hath by force of ioiture þ one halfe, & the other þ other halfe. In semblable wyse it is where estate is made to the husbande and wyfe and to other two men, in this case the husbande & the wyfe

haue nat but the thyrde parte & the other two men the other two partes.

☞ Also yf two or thre to gether disseiseth a nother of landes & tenemẽtes to ther owne vses thẽ such disseisours be called ioyntenaũtes ¶ More shalbe sayd of this mater touchyng iointenaũtes in the next chapiter.

¶ Tenauntes in common.

TEnauntes in common (as I sayde before) be they that haue landes or tenementes in fee simple, fee tayle, or for terme of lyfe, which haue such landes and tenementes by seuerall tytle, and nat by ioynt tytle and none of them knoweth that whiche is seuerall to hym. And in this case they ought by ỳ lawe before partition made betwene thẽ to occupy such landes and tenementes in comon and for vndeuided to take the profytes in common. And bycause they come to such landes & tenementes by seuerall tytles & nat by one selfe ioynt tytle & theyr occupacion & possession in the same is amonge them in common they be called tenauntes in common. or tenaũtes ꝑ indiuiso. As, for example, yf a man enfeoffe two ioyntenauntes in fee symple & the one of them alyeneth that, ỳ to him belongeth to another in fee, nowe the other ioyntenaunt and he to whõ the alienacion was made be tenaũtes in cõmõ for that they be seased of suche tenementes by seuerall tytles, for the one commeth to the one halfe by the feoffement of the ioyntenaunt and the other hath the other halfe by force of the fyrst feoffement made to hym and to his fyrste fellowe and so they be in by seuerall tytles & by

seuerall

seuerall feoffementes.

¶ And it is to wyt, that when it is sayd in any boke, that a man is sealed in fee without moze sayeng oz addition, it shall be vnderstande fee simple, foz it shall nat be vnderstande by suche wozde in fee that a man is sealed in fee tayle, except there be put in it such addicion (tayle) Diffinicõ of fee onely.

¶ Also yf thze ioyntenauntes be & the one of them alieneth that whiche vnto hym belõgeth to another in fee, in this case the alienee is tenaũt in cõmon wᵗ the other two ioyntenaũtes. But yet the other two ioyntenaũtes be sealed of ꝑ two partes ioyntly & of these two partes the suruiuour betwene thẽ holdeth place. Ioyntenauntes.

☞ Also yᵗ there be two ioyntenauntes in fee and the one gyueth that, ꝑ vnto hym belongeth to another in the tayle, the donee and the other ioyntenaũt be tenaũtes in commen. But yf the landes be gyuen to two men and to the heyzes of theyz two bodyes engẽdzed, the donees haue ioynt estate foz terme of theyz lyues, and if eche of them haue issue and dye theyz issues shall holde in common.

¶ Also yf landes be gyuen to two mẽ to haue and to holde the one halfe to the one & to hys heyzes, & the other halfe to ꝑ other and to his heyzes, they be tenauntes in common.

¶ Also yf a mã sealed of certayne lãdes ẽfeoffeth another in ꝑ halfe of the same lãde wᵗout any speche of assignement oz symptacion of the same halfe in seueraltye at the tyme of the feoffement, thẽ the feoffee & the feoffour shal holde theyz parties of the lande in common.

¶ And as it is of tenauntes in common of lãdes oz tenementes in fee simple oz fee tayle, euẽ so

Ioynte-nauntes.

so it is of tenaũtes for terme of lyfe. Therfore yf two ioyntenaũtes be in fee and the one letteth to a man that, þ vnto hym belongeth for terme of lyfe and the other ioyntenaunt letteth that which to hi belongeth to another for time of lyfe also, these two lessees be tenaũtes in cõmon for terme of theyr lyues.

¶ Also yf a man let lãdes to two mẽ for terme of theyr lyues, of whom þ one graũteth all his estate to an other: then that other tenaunt for terme of lyfe, and he to whom the graunt is made shall be tenauntes in cõmon durynge the tyme that both lessees be alyue.

¶ Note yf there be two ioyntenauntes i fee, and the one letteth that, þ vnto hym belõgeth to another for terme of lyfe: þ tenaũt for terme of lyfe durynge his lyfe and the other tenaunt that dyd nat let be tenauntes in common.

Questiõ.

And vpon this case a questiõ may ryse as this. Let the case be þ the lessour hath issue & dyeth, ipuynge thother ioyntenaunt his felowe, & ipuynge the tenaunt for terme of lyfe, the questiõ is whether the reuersion of the halfe þ the lessour hath shall discende to the issue of þ lessour or whether the other ioyntenaunte shall haue it by the suruyuour or no. And some haue sayde, that the other ioyntenaunt shal haue the reuersion by the suruyuoure for as muche as, when the ioyntenauntes were ioyntelye seysed in fee symple, though one of them made estate of þ, that vnto hi belongeth for terme of lyfe, and though he hath seuered the frãke tenemẽt of that þ to hym belongeth by the lees, yet he hath nat seuered the fee symple.

But the fee simple abydeth to them ioyntly as it was

is was before. And so it semeth vnto thẽ, þ the other ioyntenaunt which suruiueth shall haue the reuersiõ by the suruiuour. But other haue thought the contrary, and this is theyr reason. When one of the ioyntenauntes letteth that which vnto hi belongeth to another for terme of lyfe by such lees the franke tenement is seuered from the ioynture. So that the reuersiõ that is dependaunt vnto the same franke tenement is seuered from þ ioynture furthermore if the lessour had reserued to hym a yerlye rent vpon þ lees, þ lessour onlye shulde haue the rẽt whiche is a proofe þ the reuersiou is onely in hi and that the other hath nothynge therin.

☞ Also yf the tenaunt for terme of lyfe were impleded and make defaut after defaut, þ lessour shal be onely here vpõ receyued to defẽde his ryght and nat his felowe, which proueth þ reuersion of the halfe to be only in the lessour, and so consequently, yf the lessour dye, lyuinge the lessee for terme of lyfe the reuersion shall discende to the heyres of the lessour and shall nat come to the other ioyntenaũt by the suruiuour after these mens opinions, yet it is a dout But in this case, yf the ioyntenaunt that hath the franke tenement, haue issue and dye, lyuige the lessour and the lessee, than it semeth that þ issue shall haue the halfe in his demesne, as of fee by discent for almuch as the franke tenement may nat by nature of the ioynture be annexed to a reuersion, and it is certayne that he that letted, was sealed of the halfe in his demesne as of fee, and that none shall haue any ioynture in his franke tenement. So that this shall discende to his issue.

Recette.

Quere.

If

Releas. ☞ If thre ioyntenaunres be, & the one releaseth by hys dede to one of hys felowes all the ryght he hath in the lande, than hath he to whõ the releas is made ꝑ thyrde part of the lãdes by force of ꝑ releas, & he & his felowe shal holde ꝑ other two parties ioyntly. And as to ꝑ thyrde parte ꝑ he hath by force of ꝑ releas he holdeth it with hi selfe and his felowe in comon.

¶ And it is to wyte, that somtyme a dede of releas shall take effecte to put the state of hym, that made the releas in him, to whome the releas is made as in case aforesayde.

¶ Also yf a ioynt estate be made to ꝑ husbãde and wyfe and to a thyrde person, and the third person releaseth his ryght that he hath to the husbande: than hath the husbande that halfe which the thyrde person had, and the wyfe of this hath nothyng semblably yf the thyrde person had released to the wyfe nat nampyng the husbande in the releas, thẽ shulde ꝑ wyfe haue the halfe that the thyrde person had & the husbande nothige of this but in ryght of his wyfe bycause such releas shal enure to put the estate to hym to whom it was made of all that, ꝑ belongeth to hym that made the releas. Ageyne i some case a releas shall enure and serue to put all the ryght that a man hath that made the releas in hym to whome it is made. As a mã beynge sealed of certayne landes is disseised by two disseisours yf the person disseised by his dede releale all his ryght to one of the disseisours than he to whom the releas is made shal haue and holde al to hi alone and put out hys felowe of the occupaciõ of it. And the cause is, for that the two disseysours were sealed by wrongs

Disseisours.

wronge by them done agaynst the lawe, & whē one of thē getteth the releas of hi ꝑ had ryghte to entre, this ryght resteth in hym to whom the releas is made & in such plyght as if he ꝑ had ꝑ ryght had entred & infeoffed hym of the same. And the cause is, for that he that before had an estate by wronge hath nowe by the releas a ryghtefull state.

☞ And in some case a releas shall enure and take effecte by way of extinguisment, and such a releas shall helpe the ioyntenaunt to whome the releas was nat made as well as hi to whō it is made as ꝑ a man be disseised, and the disseisour maketh a feowemēt to two men in fee, ꝑ the person disseised releaste to one of the feoffes i fee by his dede thā such releas shal enure to both the feoffes bycause the feoffes haue estate by the law that is to say by ꝑ feoffement and nat by wronge done to any other.

Releas by way of extinguisment.

¶ And in lyke maner ꝑ the disseisour make a lease to a man for terme of lyfe, the remaynder ouer to another in fee, ꝑ the disseisie woll releale to the tenaunt for ẏme of lyfe al his right this releas serueth as well to hi in the remainder, as the tenaunte for terme of lyfe. And the cause is for that the tenaūt for terme of lyfe cōmeth to his estate by the course of the law, and for this cause the releas shall enure and take effecte by wey of extinguisment of the ryght of hym that hath released. And by this releale the tenaunt for terme of lyfe hath no greater estate than he had before the releas made vnto him and yet the ryght of hym that released is al vterly extincte and gone. Wherfore for asmuch as such releas can nat enlarge the state of ꝑ tenaunt

A releas shall enure to him in the remainder.

naunt for terme of lyke, it is reason, that it shall serue hym in the remaunder.

¶ Also yf ther be two parceners, and ỳ one alyeneth his parte to another: thother parcener and the alienee be tenauntes in common.

Tenauntes in cõmon by tytle of prescripcion.

☞ Furthermore tenauntes in common may be by tytle of prescripcion yf the one & his auncestours or they whose estate he hath in ỳ halfe haue holden in cõmon the same halfe with the other tenaunt ỳ hath the other halfe and with his auncesters or them whose estate he hath as vndeuided, tyme out of mynde.

Actions seuerall.

¶ Also ye shal marke, that in lũme case tenauntes in cõmon ought to haue of theyr possession seuerall actions, & in some case they shal ioyne in one accion, for yf there be two tenauntes in cõmon & they be disseised, they ought to haue agaynst the disseysour two assises and nat one assise. For euery of them ought to haue an assyse of his halfe, bycause they were seased by seueral titles, but otherwyse it is of ioyntenaũtes for yf there be .xx. ioyntenaũtes & they be disseised, they shall haue i al theyr names but one Assise, bycause they haue but one ioynt tytle.

Assise.

☞ Also yf there be thre ioyntenaũtes, of whõ the one releaseth to one of his felowes all the eyght he hath and afterwarde thother two be disseased of the hole, in this case they shal haue in both theyr names one Assyse of the two partyes. And as to the thyrde parte he to whome the releas was made ought to haue therof an Assise in his owne name, bycause as to ỳ thyrde parte he is tenaunt in common.

Dyuersites.

¶ Also as to sue accions ỳ touche the realtie, there is a dyuersytye betwene parceners that

in

in dyuers discentes, and tenauntes in cõmon. For if a man seased of certayne landes in fee, hath issue two doughters and dye, & they entre into the landes as coheyres, and eche of them hath issue a son & dye without particiõ made betwene them, so that the one halfe descendeth to the son of the one parcener, & the other halfe to the son of the other and they entre & occupie in comon, and be disseased, i this case they shal haue in theyr two names one Assise, & not two Assises And ꝑ cause is, though they come i by dyuers discẽtes, yet they be coheyres & ioyners.

☞ Also yf two tenauntes in common of certayne landes in fee, gyue the same to another man in the tayle, or let it to another for terme of lyfe, yeldynge an annuitie or certayne rẽt of a pounde of peper, or an hauke or an hoyse, and they be seased of these seruyces & afterwarde al the rent is behynde, and they distrayne for it, and the tenaunte maketh them rescous, in this case as to the rent and the poũde of peper they shall haue two Assises, and as to the hauke & the hoyse but one Assise. And the cause whye they haue two Assyses as to the rent & pounde of peper is, for that they were tenauntes in cõmon by seueral tytles, & whã they made a gyft in the tayle or lease for terme of lyfe, sauynge & and reseruynge to them the reuersion and yeldynge to hym certayne rent: this reseruaciõ is incydent to theyr reuersion. Rescous.

¶ And bycause theyr reuersion is in comon & by seuerall tytles, euen as theyr possession was before the rent and other thynges which maye be seuered and which were to them reserued vpon the gyfte or vpon the lease (which be incy-

dent by the lawe to the reuersion/therfore such thynges so seuered be of the nature of reuersiõ Wherfore it behoueth that the rẽt & the poũde of peper which may be seuered be to thẽ in cõmon by seuerall tytles. And of this they shall haue two Assises & euery of them in his Assise shall make his playnt of the halfe of the rent & of the halfe of the poundt of peper. But of the hauke and the hoyle which can nat be seuered they shall haue but one Assise, for it were an absurditie & thynge incomuenièt to make a plaint in Assise of the halfe of an hauke, or of þ halfe of an hoyle. In lyke maner it is of the other rentes and serupces that tenauntes in cõmon haue in grosse by dyuers tytles.

Playnt in assise.

Parson all actiõs

¶ And ye shall vnderstande that concernynge action parsonals, tenaũtes in comon ought to haue them toyntly in al theyr names, that is to say of trespas or of offences that touche theyr tenementes in comon, as of brekynge of theyr houses, brekynge of theyr closes. and pastures, wastynge and dekoulynge of theyr grasse, cuttynge of theyr woodes, & of fischinge in theyr pondes, and such other, and they shall recouer toyntly damages, bycause the accion is in the parsonaltye & nat in the realtie.

Damage

☞ Also yf tenauntes in cõmon make a lees of theyr tenemẽtes to another for terme of yeres yeldynge vnto them yerly a certayne rent, yf the rent be behynde, they shal haue one accion of det agaynst the lesse and nat dyuers accions, bycause the accion is in the parsonaltye. But i auourye for the sayd rent, they ought to seuere bycause it is in the realte as þ assise is.

Tenaũt encõmen shal haue one acciõ of dette.

Auourye

¶ Tenaũtes in common of chatels.

It

It is to be knowē, ꝑ as there be tenaũtes in cõmon of lãdes or tenementes: so there be tenauntes in cõmon of possessiõns & ꝑtcles of chateis aswell reall as ꝑsonall. Of real as if a lees be made of certayn landes to two men for terme of .xx. yeres, and whan they be therof possessed the one graũteth that, ꝑ vnto him belongeth, duringe the terme, to another, he to whom the graunt is made & the other shall holde & occupye in cõmon.

Joyntenaunt of awards.

¶ Also yf two ioyntenauntes haue the warde of the bodye and of the landes of an heyre within age, & thone of thē graũteth to another that, ꝑ vnto him belongeth of the same warde, thē he to whome the graunt is made, & the other that graũteth nat shal haue & holde it in common.

☞ Of chateis parsonels, as yf two haue a ioynt estate eyther by gyfte or by byeng, of an hoyle, or of an oxe, or such lyke, & the one of thē graunteth that, ꝑ to hym belongeth here shall the grauntee and he that graunted nat, haue & possede such chatel parsonal in cõmon. And in such cases where dyuers ꝑsons haue chateis reals or parsonels in cõmon and by dyuers tytles yf one of thē dye, the other that suruiueth shall nat haue his felowes parte by the suruyuour, but the executours of him that dieth shal holde and occupy it with him that suruyueth in lyke fourme as their testatour dyd or ought in his lyfe, forasmuche as theyr tytles and ryghtes were seuerall.

¶ Also in ꝑ case aforesayd, yf two haue estate in cõmon for terme of yeres, and the one doth

occupy all and put the other out of his possession and occupation, thē shal he that is put out haue agaynst thother a wryte de Ejectione firme for the halfe. In semblable maner where two holde the warde of landes or tenementes during the nonage of a chylde, yf one shall put out the other of his possession, he ꝑ is out shall haue a wryte, de Ejectione custodie of the halfe, bycause these thynges be chatels reals, & may be appoyncioned and seuered. But no accion of trespas lyeth for the one agaynst ꝑ other (as for example Quare clausum suum fregit et herbam suā consumpsit nor such lyke actions) forasmuch as eche of them maye entre and occuppe in common. But yf two be possessed of chatels ploneis in common by dyuers tytles, as of an horse, or an oxe, cowe, yf the one take it all to hym selfe out of the possession of the other the other hath none other remedye, but to take it agayne from him ꝑ hath done hī the wronge, whē he may se his tyme.

¶ In lyke maner of chatels reals which may nat be seuered, as in the case aforesayd, where two be possessioners of a warde of the body of a chylde within age, if one shall take a chylde out of the possession of the other the other hath no remedye by any actiō at the law, but to take ꝑ chylde out of the others possession, when he seeth hys tyme.

☞ Fynally ye shal vnderstande that when a man in pleadynge & declarynge his cause wyll shewe a dede of feoffement made vnto hym of a gyft in the tayle or a lease for terme of lyfe of any landes or tenementes, shall vse his termes in this wyse, and saye, by force of such feoffe-

ment

Wryt de ejectione firme.

De ejectione custodie.

Trespas

Forme of pleading

ment, gyfte, or lees, was sealed.

☞ But where a man wyl declare or pleade a leale or a graunt made vnto hi of a chatell real or parsonall, there he shal say by force of which he was possessed.

¶ Of partition to be made by ioyntenaũtes & tenaũtes in cõmon inacted. An. xxxi. Hen. viii.

All ioyntenaũtes & tenaũtes in cõmõ of any estate of inheritaũce in theyr owne ryghtes or in the ryght of theyr wyues of any landes or hereditamentes within thys realme of Englãde, Wales, or the marches of the same, shall and may be compelled to make partition betwene them of the same which they so holde as ioyntenaũtes or tenauntes in cõmon by wryt de ꝑticipatione faciendo to be deuised in the chauncery in lyke maner as coparteners are compelled to do, and the same wryt to be pursued at the common lawe. And after such ꝑtition made euery of the sayd ioyntenauntes & tenauntes in cõmon, shall & maye haue ayde of the other or of theyr heyres, to thintent to dereigne the warrantie paramoũte and to recouer for the rate as is vsed betwene coparteners after partition made by the ordre of the cõmon law.

Wryt de ꝑticipatione faciendo.

Ayde ꝓyer.

¶ Item in the. xxxii. yere of kynge Henry the viii. Capi. xxxii. It is further inacted that all ioyntenaũtes & tenaũtes in comon which holde ioyntlye or in cõmon for terme of lyfe, yere or yeres or ioyntenauntes or tenauntes in cõmon where one or some of thẽ haue estate for terme of lyfe or yeres with other that haue estate of

inherytaūce or free holde in any lādes or other hereditamentes shall be compellable by writte of partician to be pursued out of the chaūcery vpon theyr cases, to make seueraunce & partician of all such landes & hereditamētes as they holde ioyntly or in cōmon for terme of lyfe or lyues, yere or yeres where one or some of them holde ioyntly or in cōmon for terme of lyfe or yeres with other that haue an estate of inheritaunce or free holde, Prouyded, that no suche partician nor seueraunce, be hurtfull to any p̄son other then suche as be partyes vnto ỹ sayd partician theyr executours or assignes.

Of conditions.

FOrasmuch as euery estate is eyther pure, or cōditionall, it were nat amisse to make some declaracion of the nature and efficacye of cōditions. Wherfore ye shall vnderstande that of condicions, some be actuall cōdicions, & be called expresse cōdicions or conditiōs in dede, and other some be cōditiōs i law which be called also in latyne. Cōdiciones tacite, siue cōdiciones iplicitie, bycause they be secretely implyed by the lawe and nat expressed.

Diuision

☞ Conditions in dede be suche as be knytte and annexed by expresse wordes to the feoffement lease or graunt, eyther in writynge or without, as for example yf I infeoffe a man in certayne landes reserupnge to me & to my heyres so much rent yerely to be paide at suche a feast, and for defaut of paymēt, ỹ it shalbe lawfull for me to reentre, this is a feoffemēt vpō cōdi-

Conditiōs i dede.

cion

cion of paymēt. And here ꝑ nat paymēt of the rent shall dissolue and vtterly dekete the feoffemēt. Semblably it is of gyftes i tayle leases. &c.

¶ But yf the condicion be, that for defaute of payment of the rent, it shalbe lawfull for the feoffour to entre agayne in to the lādes and to holde them tyll he be contēted and satisfyed of the rent, this conditiō nat performed doth nat dissolute nor vndo ꝑ feoffement, but only gyueth to the feoffour an aucthorytie to retayne the lādes (as it were by way of distresse) tyll he hath leuyed the arrerages of the rent. And ye shall well marke and obserue, that condicions be sometyme made to be ꝓfourmed on the feoffees behalfe, and somtyme on the feoffours behalfe. On the feoffees behalfe, as when I infeoffe you of landes or tenementes vpon cōdicion ꝑ ye shal do such an act, as to pay vnto me or to myne heyres such annuall rent. Distres.

☞ On the feffours behalfe, as whē I make a feoffemēt vnto you vpon condicion that yf I pay or cause to be payde vnto you before suche a day such a summe of money, then it shalbe lawfull for me to entre agayne and retayne my landes in my former estate. In this case he ꝑ is the feffee, ys called tenaunt in morgage, which is as much to say as a dede gage, and it semeth that ꝑ cause why it is so called, is for as much as it is doubtfull whether the feoffoure wyll pay at the day ymptted & ꝓscribed such sūme of monye for the redemption of his landes or no, for yf he do nat, his tytle or intresse in the landes thus gaged and oppignorate is vtterly extincte & gone without al hope of renuynge. Tenaūt i morgage

¶ Ye shall also note, that yf the morgageour

dyeth before the daye of payment, his heire may redeme the lande very well, euen as well as his auncestour ꝑ morgaged the lande myght haue done, although there be no mencion made of heyres in the wrytynge.

¶ And yf when the money is lawfully by the morgagour or his heyre tendred and profered. and ꝑ feffee refuseth to receyue ꝑ same ꝑ feoffour or his heyre may entre, & thē hath ꝑ feffee no remedy for his monye at the cōmon lawe.

Conditious voide

¶ Ye shall vnderstande also, that some cōdicions be vtterly voyde in ꝑ law, & of none efficacye, vertue, or strength, as if a feoffement be made of landes in fee symple vpon condicion, that the feoffee shall nat aliene or put awaye ꝑ same to none other, this condicion I saye is voyde, bycause the feffee is restrayned of hys hole poure that the lawe gyueth in suche case vnto hym, and whiche power and lybertye, is in maner included in euery feoffement. Yet I may abbrydge hym of parte of his power, as to condicion with hym that he shall nat aliene the landes to such a persome or such. But of gyftes in tayle otherwyse it is, for yf I gyue landes to a man and to the heyres of his body lawfully begotten vpon condition that he nor his heyres shall alyene the lādes to none other persone, this condicion is good and effectuall i the lawe, and yf he or his heyres contrary to ꝑ condicion do alyene them, thā the gyuer or his heyres may very well entre and reteyne the lādes for euer bycause this condicion doth stande with the forenamed statute of Westminster secōde whiche prohibiteth suche alyenations to be made.

Gyfte in tayle vpō cōdition.

Hys

☞ Hytherunto I haue spoken of condicōs in dede, nowe wyll I shew what be cōdicios in lawe that be annexed to any estates.

Estates vpon cōditions & lawe.

¶ Knowe ye therfore, that if the office of a parker, stewarde, coūstable, bedell, or bayliffe or such lyke office be graūted to a man for terme of his lyfe, though there be no condition at all mēcioned in the graunt, yet the lawe speaketh of a cōdicion in this case, whiche is that yf the partye to whome such office is gyuen shall nat execute all poyntes appertaynyng vnto his office accordyngly, by him selfe or his lawful deputye, it shalbe lawfull for the graūtour to entre and discharge hym of his office and this condicion is called a cōdicion in law. There be also thre other maners of estates vpon condicion ꝑ ys to saye, condicions agaynst the lawe, condicions repugnant, & condicions impossible.

Condicios against the lawe.

¶ Fyrste estates vpon condicion agaynste the lawe be, as yf a man maketh a feoffemēt, gyfte graunte, or leale vpon condicion that yf the feoffours, donours, graūtours, or leassours kyll I. S. whiche is nat the kynges enmie, or burne his house: that thē it shalbe lawfull to ꝑ feoffours, douours, &c. to entre, this condicions is voyde and the estate is good.

¶ And lyke lawe ys it suche condicions be to be ꝓformed of ꝑ parte of ꝑ feoffe, graūte. &c.

¶ But yf case be ꝑ a leale for terme of yeres be made of lande vpon condicion that if the lessee kyll I. S. that thē he shall haue fee symple although that he in this case ꝓforme ꝑ condicion, his estate is nothynge therby enlarged because the condicion is agaynst ꝑ lawe.

¶ Also ye shal vnderstande that where an ob-

Obligacion.

ligacion is endorsed with a condicion ꝑ which is agaynst ꝑ lawe: both the obligacion & also ꝑ condition be clerye voyde in the lawe.

Condicions repugnant.

¶ Estates vpon condicions repugnant be as if a feffement or gyfte in tayle be made vpon condition that the feffee, or donee, shall take no profyte or shall do no wast, and such other lyke such conditions be voyde and the estate good and effectuall in ꝑ lawe natwithstandynge.

¶ Also yf a lease be made for terme of lyfe vpon condition that he shall do no fealte this is a voyde condicion.

¶ Lyke wyse it is if a man that hath nothyng in the maner of Dale graũteth a rent charge goynge out of the same vpon condicion ꝑ hys person shall nat be charged this graunte ys good and the condicion voyde.

Cõdicions impossible.

¶ Estates vpon condicions impossible be as if a feffement be made vpon condition that yf the feffe goeth nat through the see on foote to Caleys in one day thẽ it shalbe lawfull to the feffe to reentre this is a frustrate & voyde condicion and yet the estate is good.

¶ Lyke lawe ys of a lease made for terme of yeres. &c. or an obligation with a condicion impossible. vt supꝝ. the obligation, or leasse is good and condition voyde to all purposes.

¶ An Acte how straũgers shal take auantage of cõditions made an. xxxii. Hẽry. viii.

It is innacted that alwell persones whiche haue or shall haue any gyfte or graunte of the kynge by his letters patentes of any landes, parsonagies, tyties, or other hereditamentes, or of any reuersion of the same which

dyd

dyd belonge to any monastery or other eccle-
siastical house dissolued or other wyse come in
to the kynges handes syns the.iiii.day of fe-
bruary in the.xxvii. yere of oure soueraygne
Lorde kynge Henry theyght, or which at any
tyme heretofore dyd belonge to any other per-
son and after came to the kynges handes, as
also all other plons beyng graũtes or assignes
to the kynge or to any other plon, theyr heyres
executours, successours, & assignes, shall haue
lyke auantage agaynst ꝑ fermours, theyr exe-
cutours, administratours & assignes by entry
for nat payment of the rent, or for doynge wast
or other forfeyture, & also shal haue ꝑ cãe anã-
tage by actiõ only for nat plourminge of other
cõditions couenãtes or agremẽtes cõteyned in
the indẽtures of theyr leases or graũtes agaist
the sayde fermours, and grauntees, theyr exe-
cutours, administratours, and assignes, as the
sayde lessours or grauntours thẽ selues myght
haue had at any tyme. And agayne mutually
and on thother syde, the sayde fermours, and
graũtees for terme of yeres, lyke, or lyues, their
executours, administratours, & assignes shall
haue lyke anaũtage agaynst thẽ for any cõdi-
cion couenãt or agremẽt cõteyned in the sayde
indenture, as they myght haue had agaynste
theyr sayd lessours & grantours theyr heyres &
successours all benefytes & aduaũtage of reco-
uerye i value by realõ of any warrãty of dede
or i law by voucher or otherwise only excepted
¶ Prouyded that this acte shall nat extẽde to
charge any person for breche of any couenant
or condition compryled in any such writyng,
but for such as shalbe broken and nat parfour-
med

med after the fyrst day of September in the .xxxii. yere of this kynge and nat before.

☞ Lyuery of seasen, and atturnement.

IN all feffementes, gyftes in tayle leases for tme of lyfe, or for terme of an others lyfe, of landes or tenementes, there can be no alteration or tranſmutation of poſſeſſion by the cõmyent lawes of this realme onleſſe there be a certayne ceremony adhibited and ſolempniſed in the preſence and ſyght of neyghbours or others, which ceremony is called lyuery of ſeaſon.

The maner of lyuery of ſeaſon.

☞ And ye ſhall vnderſtande, that this ceremonye of lyuery of ſeaſon is done, whan the feoffour, donour, leſſour or theyr deputy come with the neyghbours ſolemply to the lãdes or tenementes, and there put the feoffee donee or leſſee in poſſeſſion of the ſayd lãdes or tenemẽtes by delyuerynge vnto him a clodde of erth or the rynge of dore, or ſome other thynge in the name of ſeaſon, & for this ſelfe cauſe this ceremony of law is called lyuery of ſeaſon, ꝑ is to wyte a tradicion or gyuynge of ſeaſon.

Dyuerſite bytwene poſſeſſion and ſeaſon.

¶ But this ceremony is nat requyred in leſſees for terme of yeres or in leſſees at wyll foraſmuch as the leſſour in ſuch caſe remayneth ſtyl ſeaſed, and the leſſee hath only the poſſeſſion without the ſeaſine, and therfore ꝑ termes of the law be, that ſuche a man is poſſeſſed, where as in feffementes, gyftes in tayle, and leſes for lyfe, he is called ſeaſed.

¶ Wherfore yf a feoffement or leale for lyfe be made of landes or tenementes and before ꝑ the lyuery of sealine be made the feffour dyeth the heyre of the feoffour shall haue the landes ꝑer cummũ ius, that is to say by ꝑ rygour of the lawe, notwithstãdynge that the feffee hath payde to the feffour the pryce of the lande, and although the feffe be in ꝓssession. But otherwyse it is of a leale for terme of yeres.

¶ Alyke ceremonye is vsed, whan rent charges, rent serupces, rent in grosse, auowson in grosse, a vylleyne in grosse, comen in grosse, cõmẽ for beestes certeyne, estouers, & such other thiges as passe by way of graũt, be grãted for it is no full & ꝑfyte graũt, tyl it be cõsignate & sealed as it were wt ꝑ ceremony of atturnemẽt.

¶ This atturnemẽt is nothynge els, but whẽ the tenaũt of the lande of which the reuersion is graunted, or out of whiche a rente ys graunted, do make some euident signification and token that he accepteth ꝑ person to whõ the graũt is made to be in ꝑ same respecte vnto hym that ꝑ graũtour was. As for an example, if the tenaunt of the lande after he haue herde of the graũt commeth to the grauntee that is to wyt, to ꝑ ꝑsone to whõ the graũt was made. and say in this wyse, or in lyke effecte. Atturnement.

¶ I agree me to the graunte made vnto you by such a man, or I am well apayde & cõtẽted of the graũt ꝑ such a mã hath made vnto you. But ꝑ moost vsuall & frequent forme of atturnement is to saye. Hyr I atturne vnto you by force of the sayd graunt, or I be come your tenaunt, or to delyuer vnto the graũtee a penye or a halfe peny by way of atturnement. Howe at turnemẽt shalbe made.

yf

☞ Yf a man maketh fyrst one graunt to one person, & after another to another persone that graunt shall stande to which the tenaunt wyll atturne, although it be the latter graunt.

¶ And ye shall note, that yf a man be seased of a manour which is parcell in demene, & parcell in seruyce, and doth alyene the same Ma. nour to another, onelesse the tenaũtes of ꝑ Manour do atturne ꝑ seruyces shal nat passe, only tenauntes at wyll excepted, for it nedeth nat to cause them to atturne.

Dyuersyte. ¶ Note furthermore there is a greate difference bytwene gyuynge a peny in name of seasyne, and gyuynge by way of atturnemẽt, for whan it is gyuen of the tenaũt to that graunt in ꝑ name of seasine, it doth nat only implye an atturnement, but also it gyueth hym such a seasine, that yf the rent afterwarde were behynde and nat payde, he maye nowe vpon the seasine of ꝑ peny, akt a lawful distres taken, & after relcus made, bryngе an Assyse of nouel disseasin, where as yf it were gyuen onely by way of atturnement he coulde nat bryngе the Assise, but his wryt of relcus onely.

Assise.

Wryt of relcous.

¶ Also ye shall vnderstande, that where lãdes be deuysable by testamẽt by the custome of any auncyent borough or cytye, yf there the reuersion of any landes be by testament bequethed to a man in fee, and the testatour which we cal the deuisour dyeth the deuyse, that is to wytte he to whome the deuyse was made hath forth with the reuersion in hym without further ceremonye of atturnement. Lykewyse it is yf a man by testament doth bequeath a rent charge that he is seased of, or a rent seruyce, there nedeth

Atturnements is

deth none atturment at all. nat acquyte.

☞ Yf two ioyntenauntes be of lande & the lorde graunteth the seruyces to another, yf one of the ioyntenauntes aturneth it is ynoughe. Fynally, yf a lease be made for terme of lyfe, & remaynder to another in tayle, the remaynder ouer to the ryght heyre of the tenaũt for terme of lyfe, yf in this case the tenaunt for terme of lyfe wyll graunt his remaynder in fee to another by his dede this remaynder passeth forthwith without any atturnement, for yf any atturnment were requisite, it shulde be made of the tenaunt for terme of life, which in this case is ỹ graũtour him selfe. And in vayne it is ỹ the grauntour shulde be inforced to atturne, sith an atturnemẽt is adhibited & had to none other purpose, than to haue the cõsent & agremẽt of the partyculer tenaunt, to thintent ỹ it may appere, that he hath notice and knowlege of this graũt but here where as ỹ ytcular tenaũt hym selfe is ỹ grauntour, an atturnemẽt were superfluous, and more than neded.

☞ Note furthermore ỹ where there is lorde and tenaunte & the tenaunte leaseth hys tenementes to a womã for lyfe le remeyndre ouer in fee the woman taketh a husbande & after the lorde graũteth ỹ seruyces. &c. to the husbande in this case durynge the couerture ỹ seruyces be put in suspence. But yf the wyfe dye ly uing the husbande, the husbãde & his heyres shall haue ỹ rent of thẽ in the remeyndre. &c. And in this case there nedeth no atturnemẽt by worde because the husbande that ought to aturne acceptеth ỹ graũt of ỹ seruices the which acceptaunce is one atturnement in the law. Husbande.

of

Wytherunto I haue briefly touched and ouerrun the sundry kyndes and formes of estates. Nowe forasmuch as there is no tenure, but hath vnto it some seruyce knyt and annexed, it were very necessary to declare howe many kyndes of seruyces there be, & what seruyce is due to euery tenure. For the knowlege herof ye shall vnderstande, that the principall and most common kynde of seruyce that the tenaũte oweth to his lorde is called knyghtes seruyce.

¶ Knyghtes seruyce.

Knyghtes seruyce includethe homage, fealtie and for most parte escuage, and whosoeuer holdeth his lãdes by knyghtes seruyce, is bound by ꝑ lawe of this realme to do vnto his lorde homage and fealtie, and to pay for most parte escuage, when it shalbe assessed by aurthorytye of parliamẽt, as hereafter more playnly shall be declared.

Homage

☞ Homage is the most humble and reuerẽt seruyce that a man of fre estate & cõdicion can do, for when the tenaũt shall do homage to his lorde, the lorde shall syt and the tenaunt shall knele before him vpon bothe knees, holdynge his handes betwene his lordes handes, and say in this wyse, I become your man frõ this day forthwarde of lyfe & of membre and of earthly honour, and to you shall be faythfull and true and fayth to you shall beare for the landes ꝑ I clayme to holde of you, sauynge the fayth ꝑ I beare vnto our soueraygne lorde the kynge, & then the lorde so sytynge shal kysse him. But yf an ecclesiasticall person whiche by his order

Howe ꝑ tenãt shal do homage.

and

and profession hathe addicted him selfe to the seruyce of God in especyall, shal do homage to his lorde he shall say: I do to you homage, and shall be to you kaythfull and true, and kayth to you shall beare for the tenementes that I holde of you, saupynge the kayth which I owe to our soueraygne lorde the kynge.

What a religious ylon shal saye whā he dothe homage.

☞ Also when a woman nat maryed dothe homage to her lorde, she shal nat say: I berome your womā, for it is nat cōuenient ꝑ a woman shulde be the woman of any other then of her husbande that she shall marye, but shall saye euen as the ecclesiastical person sayth: I do vnto you homage. &c.

What a woman shall say.

¶ And yf perchaunce a man holdeth sundrye landes and tenementes of sūdrye lordes, and euery of them by knyghtes seruyce, then in ꝑ ende of his homage makynge he shall say saupynge ꝑ kayth ꝑ I owe to our soueraygne lorde the kynge, and to myne other lordes.

☞ And none is bounde to do homage to the lorde, onles it be such a tenaūt as hath in ꝑ tenaūcye an estate of fee simple, or fee tayle, eyther i his owne ryght, or i ꝑ ryght of another.

What tenaūt shal do homage.

¶ For yf a woman haue landes or tenemētes in fee simple or fee tayle, whiche she holdeth of her lorde by knyghtes seruyce, and taketh an husbande and haue issue, in this case the husbande in the lyke of his wyfe shall do the homage, bycause he hath a tytle to haue the landes by the curtesy of Englande yf he outerypueth her, and also he holdeth them nowe in his wyues ryght, yet before issue hadde betwene them the homage shall be made in both theyr names. But yf the woman dyeth before any

homage made in her lyfe, & the husbande in her lyfe, and the husbande kepethe styll the landes as tenaunt by curtesy, nowe he shall nat do homage to his lorde bycause he hath nowe an estate but for terme of lyfe.

Fealtie. ☞ Fealtie is as much to say as a fidelitie or faythfulnes, in doynge wherof the tenaũt shal holde his hande vpon a booke, and say thus.

Howe a tenãt shal do fealte. Heare you this my lorde, I to you shal be faithfull and true, and fayth to you shall beare for ỳ landes and tenementes, whiche I clayme to holde of you, & duely shall do you the custome and seruyces which I owe to do you at ỳ termes assigned, as me helpe the God & his saintes

Dyuersite. be twene homage & fealte, And then he shall kysse the booke, but he shall nat knele as he that doth homage, nor do such humble or reuerent seruyce as is before declared in homage.

¶ And ye shall obserue, that homage can nat be done but to the lorde hym selfe, where as ỳ stewarde of the lordes court or ỳ bayliffe may take fealtie for the lorde. Also tenaunte for terme of lyfe shall do fealtie, but homage, as I sayde, he can nat do.

Escuage ☞ Nowe as concernynge escuage, that is to say, the seruyce of the shylde ye shal vnderstãde, that he that holdeth his lãdes by escuage, whẽ the kynge maketh a vyage royall into Scotlande for ỳ subduynge of the Scott, is boũde to be with the kynges Maiestie by the space of xl. dayes well and conuenyently arayed and appoynted for the warre. And he that holdeth his lãde but by the mortie of the fee of knyghtes seruyce, is boũde by the force of his tenure to be with the kynge by the space of .xx. dayes, &

so

to proporcyonably accordynge to the rate and quantitie of his tenure.

¶ But nowe to our institute and purpose, after this viage ryall in to Scotlande, in whiche the kynge gothe in persone, and after the retyre into Englandeagayne, a parliament is wont to be commoned, in which shalbe prescribed and assessed what euery persone that helde his lande by homage and went nat with the kynge neyther be him selfe, nor by his deputye, shall pay to his lorde in satisfaction of his nat seruynge, and accordynge to the taxion hereof euerye tenaũt shall pay to his immediate lorde whether it be the kynge or other after ꝑ rate & porcion of his tenure ꝑ he holdeth by an hole fee, he shall pay the hoole escuage, ꝑ by a moytye, the halfe, ꝑ by ꝑ fourth parte of a fee, the fourth parte. &c. and this money thus assessed is called scutage or escuage, for which the lorde to whome it is due, may very well for the none payment therof distreyne. Parlyament. Distres for escuage.

☞ But here it is to be noted, that some tenauntes by custome vsed tyme out of mide are bounde to paye but the moytye, or the thyrde parte of that whiche shalbe assessed and lympted by acte of parliament.

¶ Yea, and the custome is in some place, that to what summe of money so euer escuage is assessed, the tenaũtes shal paye neuer but such a certayne summe of money and this kynde of escuage is called escuage certayne, that is to say where escuage is assessed by ꝑ parliement to a more or lesse summe the tenaũt to pay to ꝑ lorde. v. s. and no more nor no lesse. &c. such a tenure is called Sorage tenure & nat knyghtes Escuage certayne.

seruyce, where as the other is called escuage vncertayne.

Escuage vncertayne.

☞ Finally ye shall vnderstande, that escuage vncertayne is alwayes adiuged to be knyghtl seruyce, and draweth, vnto it warde, maryage and relieke, but escuage certayne is no knyghtes seruyce but is of the tenure of socage as shalbe hereafter more amply shewed.

¶ Of warde mariage and relieke.

EVery knyghtes seruyce draweth vnto it, warde, maryage, and relieke. Wherfore it is nowe ryght expedient somewhat to entreate of them.

¶ Ye shall therfore be admonyshed, ꝑ whē the tenaunt which holdeth his lande by knyghtes seruyce dyeth, his heyre male beyng at that tyme within the age of.xxi.yeres, the lorde shal haue the warde, that is to say, the custodye or keppynge of the landes so holden of him to hys owne vse, and profyte, tyll the heyre commeth to the full age of.xxi.yeres. For the lawe here presumeth that tyll he come to this age, he is nat able to do such seruyce, as is of this tenure requyred. Furthermore yf suche heyres be vnmaryed at the tyme of the dearth of the tenaunt, then the lorde shall haue also the warde and ꝑ bestowynge of ꝑ maryage of him.

Warde.

Mariage

¶ But yf tenaūt by knyghtes seruyce dyeth, his heyre female beynge of ꝑ age of.xiiii.yeres or aboue, then the lorde shall haue the warde neyther of the lande ne yet of the body of such an heyre, and the reason hereof is bycause a woman of that age may haue a husbande able to do

The full age of a woman.

to do knyghtes seruyce that is to say, to wayte vpon the kynges maiesties persone when he auañceth in to Scotlãde with his army royall.

☞ But yf suche an heyre female be within age of.14.yeres & nat maryed at ꝑ tyme of the death of her auncestour, thẽ the lorde shal haue the warde of ꝑ lande holden of him tyll suche heyre female commeth to the age of.xvi. yeres, by force of an acte of parlyament in the statute of Westminster the fyrste. Capi.xxii.

¶ Note that there is a greate diuersitie in ꝑ lawe bytwene the ages of females & of males, for the female hath these manye ages appoynted by the lawe. Fyrste, at.vii.yeres of age the lorde her father may distrayne his tenauntes for ayde to marye her Seconde at.ix yeres of age, she is dowable. Thyrdlye, at .xii.yeres she is able to assent to matrymonye. Fourthly at.xiiii.yeres she is able to haue her lande, and shall be out of warde yf she be of this age at ꝑ deth of her auncestour.

Diuersite of age.

Age of a woman.

¶ Fyfthly, at.xvi.yeres she shall be out of warde, though at the death of her aũcestour she was within the age of.xiiii.yeres.

Syxtly, at.xxi.yeres she is able to make alienacyons of her lãdes or tenementes. Where as ꝑ man hath but two ages, the one at.xiiii.yeres to haue his landes holden in socage, and to assent to matrymony, the other at.xxi.to make alienations.

The age of a man.

☞ Ye shall vnderstande that by the statute of Mertone, the syxt chapiter, it is enacted ꝑ if in case the lorde do marye theyr warde to vyllaynes or others, where is dispargement, yf suche heyres so maryed be vb in ꝑ age of.xiiii.

yeres or of luche age that the layde warde can nat consent to the marryage, then yf the frēdes of this heyre complayne and fele them selues greued with this vnmete maryage, the next of kynne to the heyre, vnto whome the heritage can nat descende, may entre in to ꝑ landes, and put out the lorde which is gardeyne in chevalry, and yf the next kynesman wyll nat thus do, another kynnesman of the infant may do it, & shal take ꝑ issues & ꝓfytes to the whouse & vse of the heyre, & shal yelde accōptes therof vnto him whan he commeth to his full age.

Accompt gyuynge

☞ Also there be dyuers other dyspargementes, which be nat expressed in the sayd statute, as yf the heyre beynge within age of consent, & in warde, be maryed to a decrepite person or crepyl, as to one that hath but one foote or one hande, or that is a dissormme creature, or hauynge any horryble disease or contynuall infirmitie. All these and such lyke be dispargementes. But here also ye shall vnderstande, that it shall be sayd no dispargement, onles the heyre be so maryed when he is within the age of discrecion, that is to saye: within the age of .xiiii. yeres. For yf he be of that age or aboue & consenteth to such maryage, it is no dispargement neyther shall the Lorde for such maryage lose his warde, bycause it shall be reputed and assigned to the folye of ꝑ heyre beynge of age of discretion, to consent to suche maryage.

Diuers dispargementes.

¶ Now, yf the lorde, than beynge gardeyne offre to the heyre beynge in his warde a conuenyent maryage without dispargemēt, and the heyre refuseth it, as he may at his choise and election very well do, than the lorde shall haue ꝑ

value

value of the maryage of such heyre whan he cō meth to his full age. But yet yf he mary hym selfe beynge so in warde agaynst ỹ wyll of his gardeyne, than he shal pay the double value by force of ỹ statute of Mertō before remēbred. Value of maryage

Double value of mariage.

☞ And ye shall note, that if landes holdē by knyghtes seruyce descēde to an infant or chylde within age from his mother or frō any of hys auncestours, his father beyng yet alyue, i this case the lorde shall nat haue ỹ maryage of his heyre, for durynge the lyfe of the father, ỹ lōne shall be in warde to no man.

One shal nat be warde lyuyng his father.

¶ Finally, it is to be knowne, that he which is gardeyne in chyualry i ryght, may after he hath sealed the warde, graunt the same eyther by dede or without dede to another man and thā he to whom such graūt is made is called gardeyne in kayte.

☞ Now as touchynge relieke, ye shal knowe that if a man holdeth his lāde by knyghtes seruyce & dyeth his heyre beyng of full age (ỹ full age of the male is. xxi. yeres of the female. xiiii.) then the lorde of whom the lande is holdē shall haue of the heyre relieke.

Relieks.

¶ Note ye ỹ all Erles Barons or any other ỹ kynges tenaūtes holdynge of hym in chyefe by knyghtes seruyce dye & at ỹ tyme of his deth, his heyre be of full age that is to say. xxi. yeres he ought to pay the olde relieke for his inherytaūce, that is the heyre or heyres of an Erle for an hole Eriedome one hundreth pounde The heyre or heyres of a Barone for an hole barony one hundreth markes The heyre or heyres of a knyght one hundreth shyllinges and he ỹ hath lesse, shal gyue lesse ac cordynge to the olde cu-

stome of fees, lyke lawe ys obserued of al other that holdeth of any other ther lordes immediate vt supra.

¶ Also a man may holde landes of a lorde by two knyghtes fees, & thā ꝑ heyre beynge of full age at the deth of his auncestour, shall paye to his lorde for relieke. x. poūdes.

¶ Seruyce of castell garder.

YE shall vnderstande ꝑ a man may holde by knyghtes seruyce and yet nat holde by escuage, nor shall pay no escuage, for he may holde by castell garder, that is to saye: by seruyce to kepe a towre of his lordes castell, or some other place, vpon a reasonable warnynge, whan his lorde hereth that ennemyes wyl come or be al redy come into Englande.

¶ This seruyce is also knyghtes seruyce, and drawe̅th to it warde maryage and relieke, as in all cases the comon knyghtes seruyce doth.

Groūde i the lawe.

¶ Of grande sergeauntie.

THere is also another kynde of knyghtes seruyce, whiche is called grande sergeantye, that is where a man holdeth his lāndes or tenemētes of ꝑ kinge by such seruyce as he oweth i ꝓper ꝑson to do, as to beare the banes of our souerayne Lorde the kynge, or his spere, or to conducte hys hoste, or to be his marshall or to be ꝑ sewar, caruer, or butler at the feaste of the coronation, or to be one of ꝑ chamberlaynes of ꝑ receypt or his eschequere, or to do lyke seruyces to the kynge in ꝓper ꝑ-

sone

sone, suche maner of seruyce I saye, is called grande sergeantye, that is to saye a great or hygh seruyce, and ꝑ cause why it is so called, is bycause it is the most honorable and moste worthye seruyce that is, for he that holdeth by escuage is nat appoynted by his tenure to do any other more specyall seruyce than an other is bounde ꝑ holdeth by escuage, but he that holdeth by grāde sergeantye, is bounde to do some speciall seruyce to the kynge.

The most hygh seruyce.

☞ Also yf he that holdeth of the kynge by graunde sergeanty dyeth, his heyre beynge of full age, than the heyre shal pay to ꝑ kynge for relieke, nat onlye. L. s. as he that holdeth by escuage shall do, but moreouer the clere yerly value of those lādes & tenemētes which he so holdeth of the kynge by graunde sergeauntye.

Reliek of the tenāt by graūd sergeantie.

¶ Furthermore ye shall obserue that in the marches of Scotlande some men holde of the kynge by cornage, ꝑ is to say, by blowynge of an horne to thintent to warne the men of the cōtrey when they heare that the Scottes or other theyr enemyes be commyuge or be alredy entred in to Englande which seruyce is also a kynde of grande sergeantye.

Tenure by cornage.

¶ Grande sergeantye therfore is as much to say in Latyne, as magnum seruitium, that is to say, a greate or hyghe seruyce, lyke as petite sergeantie is called Paruum seruitium, that is to say: a lytle or smal seruyce.

Diffinitiō of sergeantie.

¶ But to reuert agayne to the mater ye shall note yf any tenaunt holdeth of any other lorde thā of ꝑ kynge by such seruyce of cornage, thē it is no graūde sergeātye but yet neuerthe les it is knyghtl seruice, & draweth to it warde ma-

Rule in the lawe.

eyage and relieke for this is a rule infallible þ none can holde by grande sergeantye but of þ kynges owne maiestye.

¶ Finally ye shal vnderstãde, þ al they which holde of the kynge by this seruyce called grãde sergeantye do holde of the kynge by knyghtes seruyce, and by vertue of this tenure the kynge shall haue of thẽ warde marryage and relieke, but escuage yet he shall nat haue of thẽ onles they holde by escuage of hym by expresse and speryall wordes.

¶ Petite sergeantie.

Enaũt by Petite sergeantie is he that holdeth his lande immediatly of our Souerayge lorde þ king by this maner of seruyce, to pay to the kynge yerlye eyther a Bowe, a Spere, a Dagger, a payre of Gauntlettes, a payre of Spores of Golde, a Shafte, or suche other small thinges appertaynige to the warre and this seruyce is i effecte but socage, bycause that such a tenaunt is nat boũde by his tenure to go ne do any thynge in his owne proprie per sone touchynge the warre, but onely to rẽdre & pay yerly certayne thynges to the kynge, as a man ought to pay a rent. Wherfore this seruyce of petyte sergeanty is no knyghtes seruyce, but yet ye shall note, that a man can nat holde neyther by petyte sergeantye, neyther by graunde sergeantie, but of the kynge onely.

Petite sergeantie is socage in effecte.

¶ Homage auncestrel.

Enaũt by homage aũcestrell is he which holdeth his lande of his lorde by homage and both he and his auncestours whose heire he

he is haue holden the same lande of the sayde Lorde & of his auncestours tyme out of minde by homage and haue done vnto them homage, and this is called homage auncestrell, by reason of the longe contynuance which hath bene by tytle of prescryption as well concernynge the tenaunsy in the bloude of the tenaunt, as concernynge the lordeshyppe in the Lorde. And this scruyce of homage auncestrel draweth vn to it warrantye (that is to say) yf the Lorde which is nowe in lyfe hath ones receyued the homage of his tenaunt, he ought to warrant the same tenaunt, what tyme so euer he shalbe impleaded or sued for suche lande so holden of hym by homage auncestrell. Warrātie by cause of homage aūcestrell.

¶ Moreouer such scruyce of homage auncestrell draweth to it acquitall, that is to say, the lorde ought to acquite the tenaunt agaynst all other Lordes that can demaunde any maner of scruyce out of the tenauncye. Acquital.

¶ Wherfore yf in this case the tenaūt which holdeth by homage auncestrell be impleaded of his landes, and voucheth or calleth his Lorde to warrantye, who commeth in by proces & demaundeth of the tenaunte what he hath to bynde him to the warrantie, and the tenaunt sheweth howe he and his auncestours, whose heire he is, haue holden his lande of hym & of his auncestours tyme out of mynde, surely the lorde if he can nat denye this, and yf he hath receyued the homage of such a tenaunt, is boūde by the lawe to warraunt him his lande, so ẏ if the tenaunt lose his lande in defaute of ẏ Lorde thus vouched, that is to say: called to warrātye, he shall recouer agaynste hym so muche in Voucher

value

value of thole landes and tenementes which ꝑ Lorde had at the tyme of callynge to warrãtye or at any tyme after. But yf the lorde neuer receyued the homage of his tenaunt, then he may very well whẽ he is thus vouched dilclaime in the lordlhyp or leignory, and lo put out ꝑ tenaunt of his warrantye. Where ye lhall note, that in euery cale where the lorde dilclayme in his leignorye in court of recorde, his leignorye or lordelhyp is extincte, & the tenaunt lhal holde fro thenlefoꝛth of the nexte lorde to hym that thus dilclaymed.

Dilclayme.

¶ Thus ye perceyue that homage aunceltrell is nat but where as is a longe continuauuce, as wel i the bloude of ꝑ tenaũt in relpecte of hꝭ his tenaũcy, as i ꝑ bloude of ꝑ Lord i relpect of his leignorye. Wherfore yf the tenaunt doth ones alyene his landes to another, although he purchale the lame agayne, yet he lhal nat holde any longer by homage aunceltrell bycaule of this dilcontynuance, but lhall holde it nowe by the vulgare and accuſtomed homage.

¶ Of Lyueryes.

Tenaũt i chiefe of the kyng.

When one dyeth which helde of ꝑ kyng by knyghtes leruyce in capite, that is is to lay in chiefe, his heyres beyng vnder in age, ꝑ kyng (as is before declared) lhal haue the warde and cuſtodye alwell of the lãdes as of the body that is to wyt the maryage yf he be vnmaryed. But if ꝑ heyre be of full age at the tyme of the deth of luch auncelsour, yet lhall ꝑ kynge by his prerogatyue royall haue primer leaſon of all the landes tenementes and other

Primer leaſin.

heredi-

hereditamentes wherof such his tenaunt was sealed in his demene as of fee. And yf such an heyre woll entre in to his landes when he cõmeth to his full age before he sue his lyuerye & receyue seysyn by the kynge, no free holde shall accrewe nor growe vnto hym but he shalbe demed an intruder in the kynges possession. Yea and yf he dye so seised in the meane tyme, his wyfe shal haue no dowre of such sãdes. Wherfore it behoueth i any wyse þ such heyre aswel male as female cõpynge to full age before he or she entre into theyr lande to sue lyuery. The maner and forme wherof accordynge to þ acte of parlyament latly promulgated and set forth I intende briefly to recyte.

Intruder of þ kynges possession.

¶ Howe heyres ought to sue theyr lyueries, enacted. xxxiii. Henrici. viii. Capi. xxii.

NO person or persones hauyng landes or tenemẽtes aboue þ yearly value of. v. li. shall haue any lyuerye before inquisition or office foũde before the escheatour or other cõmissioner by vertue of the kynges writ of diem clausit extremũ or cõmission directed out of the chauncerie or other courtes hauynge aucthoryte to make suche writtes or commissiõs, whiche shall nat passe out of the same but by warrant or byll assigned and subscribed by the mayster of the wardes or lyueries, the surueyour, atturney and receyuour of the sayde court or. iii. ii. or one of them to be directed and deliuered to the Chaũceler of Englande, or to any other

Writ of dié clausit extremum.

other chaunceler or officer hauynge power to awarde such wryttes. And for the wryttynge & sealinge of the same shalbe payde the accustomed fees But yf the landes excede nat ꝑ sayde yerly value of. v. li. thē they shal pay for ꝑ seale of euery such wryt or cōmyssyon. vi. d. & for the wryttynge syxe pens, and nat aboue.

☞ And the inquisitions and offyces here vpon founde shalbe returned by the sayd ordenaryes or commissioners in to the same courte from whense the wryt or commission was awarded, whiche done, the clerkes of the pety bagge shall receyue the same offyces and make a transcripte therof to the sayde Maysters of ꝑ wardes & lyueryes. And thē the sayde mayster and the surueyour atturney and general receyuour, or. iii, of thē wherof the mayster or surueyour to be one, shall couenaunt and indent with such persones for theyr lyuerye of the castelles, manours, lordshyps, landes tenementes and hereditamētes cōprysed or nat comprysed in suche offices, and shall make and set ꝑ rate and pryce for the same, and appoynt the dayes of payemente therof by obligacion to be taken for the same to the kynge.

¶ And euery byll for any specyall or generall lyuerye assygned by thandes of the sayde mayster, surueyour, attorney, receyuour or. iii. of thē, wherof ꝑ mayster or surueyour to be one, shalbe warrāt sufficient to the Lorde Chaūceler or other officer hauynge power to passe lyueryes vnder any of the kynges seales accordyngly. In which case the clerkes of the pety bagge, or other clerkes by whome the lyueryes be wrytten shal receyue aswel for thē selues as

for

for others such fees as hath bene accustomed.

¶ Item euery person may sue at his pleasure a generall lyuerye for any manours, landes, tenementes, rentes, reuersions, remainders, or other hereditamentes wherof the clere yerely value shall nat excede.xx.li. Prouided that an office be thereof founde and a warrant fyrste obteined of the sayd maister and others as is aforesayde. Generall lyuerye.

¶ And where such generall lyuerye is sued, yf the landes excede the yerlye value of.x li. they shall paye for the Seale.xx.s.iiii.d. & all other fees accustomed as afterwarde shalbe declared But yf they excede nat the yerlye value of.v.li. they shall pay but these fees folowynge, that is to say, for the seale of the lyuerye.xii d. To the clerkes of the petty bagge for the wrytynge & the inrollynge.xx.d. For the resyte of the homage in ꝑ Hanapar eyght pens. To the lorde greate Chamberlayne twenty pens. To the maysters of the Rolles.xx.d. And to the clerke of the lyuerys for the warrant and inrollyuge of the lyuerye.xx.d.

¶ Item no person or persones shall paye in the chequer or any other courtes for ꝑ resyte of homage for any landes or hereditamētes nat exceadynge the yerly value of.v.pounde, aboue eyght pens. And for the entrynge therof and warrant of atturney aboue.viii.d. Resyte of homage.

☞ And the value of suche landes and hereditamentes nat exceadynge the yearly value of. xx.li. shall be taken as it is symyttied in the offices founden therof except by the examinacion and certificat of the sayd mayster surueyoure, atturney, and receyuoure, or thre of thē, it shall

otherwyse

otherwyse appere and be declared in any of ꝑ kynges courtes.

¶ Also no Escheatour shall sytte oneiye by vertue of his office for inquirye of the tenure title or value of any landes or other hereditamentes holden of the kynge beynge of ꝑ yerly value of.v.li. or aboue without the kynges wrytte to hym directed vpon payne to forfayte v.li. for euerye tyme he shall so do. Nether shal he take for the fyndynge of any offyce of lãdes nat exceedynge ꝑ yerly value of.v.li aboue.xv.s. that is to say.vi.s.viii.d. for his owne fee. And.iii.s.iiii.d. for wrytynge of thoffyce.

Panie of forfeture

Fees of an office.

☞ And for the charges of the iury.iii.s. And for the offycers that shall receyue thoffyces in any courte of recorde.ii.s. vpon payne that the eschetour doyng otherwyse shal for euery tyme forfayte.v.li. And vpon lyke payne thoffycers of euery court of recorde where such inquisitions shalbe returned, beynge offred vnto them within one moneth next after ꝑ fyndynge thee of, shal receyue thẽ. The one moyte of al which forfaytures to the kynge, and thother to ꝑ partye that woll sue for the same. cs.

¶ And they which hereafter shalbe in case to sue Iyuerye whole landes and tenementes exceede nat the yerly value of.v.li. may lawfully sue forth theyr generall Iyuerye by warrãt had from the sayd court as is a forsayde, although none other inquisition be therof had nor certefyed, payenge neuertheles the fees before remembred.

¶ Fynally euery person shal sue forth his patent for his Iyuery within thre monethes next after the assignement of his byll, or els his byl

assigned

assigned to be voyde and of none effecte.

¶ Hereafter ensueth the fees accustomed of the generall lyueryes.

¶ Fyrst to the clerkes of the petty bagge for the reseyte of homage and fealte ꝑ wrytynge and inrollynge,xliii.s.ii.ð. To the lorde greate Chamberlayne.xl.s. To the mayster of the rolles.iii.li. To ꝑ clerkes of ꝑ lyueryes for wrytynge of the Indentures and obligacions.xx.s. besyde counsell.

¶ The fees of the seuerall lyuerye accustomed to be payde be these folowynge that is to say for the Sygnet.iii.li.x.s.for the preuy seale xxx.s.for the great seale.xlvi.s viii.ð. To the clerkes of the pettye bagge.xl.s. To ꝑ mayster of the lyueres clerke.xl.s.for the enrolment of the knowledge of thendenture.xii.s. To ꝑ lord great chāberlayne of Englande.xl.s.for ꝑ wryt of allowaūce for the same lyuerye. x s. vi. ð.

☞ And note ye that sūmetyme in speciall cases the fees be more and sūmetyme lesse as the case and matter doth requyre.

¶ Hytherto haue we briefly touched all kyndes of knyghtes seruyce, and thynges incident to the same. Nowe wol we with lyke briefnes declare thother kides of seruices which cōmōly be cōpled vnder ꝑ general name of socage. For euery lande or tenemēt eyther it is holden by knyghtes seruyce,or elles it is of socage tenure or at the leest way of the nature of socage tenure,which in effecte is all one.

Wherfore fyrste we shal defyne what Socage is in the proper signification,which done, we shall perule ꝑ other kyndes of seruyces whiche be of the nature of Socage tenure.

Of socage.

What socage tenure is.

Socage is ꝑtely where the tenant is bou̇de to come w̄ hys soke, that is, with his plowe to eare and sow parcell of the demene landes of his lorde, which seruice in a̅ncient tyme was very cōmon, but now by the mutuall consent both of the lorde & of the tenant it is conuerted for the most part into a yerly rent. How be it the name of socage abideth styl. Wherfore now al that is nat knyghtes seruyce is called by ꝑ name of socage.

☞ So that yf a man holdeth by fealtye onelye, or by fealtye and homage for all maner of seruyce, it is but socage tenure for homage alone maketh nat knyghtes seruice, yea yf a mā holdeth by eschuage certayne, as I haue sayde heretofore, he holdeth in effecte but by socage.

¶ Nowe where a man holdeth his landes by socage & dyeth, his heyre beynge within thage of .xiiii. yeres, the lorde shall nat haue ꝑ warde, but the nexte of kynne to the heyre to whom ꝑ heritage can nat discende shall haue the tutle and wardeshyppe as well of the lande as of ꝑ heyre, tyll the heyre come to the age of .xiiii. yeres, and such tutor or gardeyne is called gardeyn in socage, and shall rendre accomptes to ꝑ heyre of the issues and profytes that he hathe receyued of the landes durynge such tyme, deductynge his reasonable costes and expences, so that he shall nat haue the wardeshyp to his owne vse and profyte as the Lorde whiche is gardeyne in cheualry hath. And in case ꝑ gardeyn in Socage dyeth before he hath made hys accompt the heyre is without remedy bycause

Garden in socage

no

no wryt of accōpt lyeth agaynste the executours but for the kynge only.

¶ Finally ye shall vnderstande that whan tenaunte in socage dyeth, the Lorde of whō the lande is holde shall haue relyefe, that is to saye the value of the rent that is yerly due vnto him of the tenauncy, beside the yerly rent, so that in effecte after the death of his tenaunte he shall haue of the heyre.ii. rentes saue that for the relefe, he may distreyne forth with, but for the accustomed rent he can nat distreyne tyll the vsuall day of payment be come. Relefe. Distres.

¶ Francke almoyne.

THenaunt in francke Almoyne that is to say, in free almysse is where a Byshop, Deane or any other ecclesiastical person holdeth of his lorde in pure and perpetuall almes and such tenure began fyrst in olde tyme, after this maner. Whan a man was sealed in auncyent tyme of certayne lādes or tenementes in his demene as of fee, and of the same tenementes enfeoffed an Abbot, and hys couent or a Pryour and his couent, or any other persone ecclesiasticall as a Deane of a College, Mayster of an hospitall, or suche lyke to haue and to holde the same landes to thē and to theyr successoures for euer in pure and perpetuall almesse, or in francke almes, in these two cases the tenemētes shulde be holdē in francke almoyne. The first foūdaciō of franck almoyne.

¶ By force of which tenure they that holde in francke almoyne after this sorte be bounde of

eyght before god to make orisons & prayers to celebrate masses & to do other diuine seruyces for ꝑ soules of theyr graunters and feffers and for the soules of theyr heyres which be dead & for the prosperous estate of theyr heyres ꝑ be now alyue. And bycause of eyght they be boūde to this dyuyne seruyce, they be discharged by the law to do any other prophane or corporall seruice, as fealtye or such other lyke.

Tenāt i franke almoyne shal do no fealte.

¶ But neuertheles yf such as holde theyr tenementes in franke almoyne do omyt & leaue vndone these deuyne seruyces wherunto they be bounde before god, the lorde can nat distreyne them, ne yet compell them by any other meanes by the course of the cōmon, law but ꝑ onely remedy is to cōplayne of thē to theyr ordinary, who of eyght ought to compel such ecclesiasticall personnes to do the diuine seruyce due as aforesayde.

Tenant by diuine seruyce.

☞ But here ye shall note that yf a persone of a church or any other ecclesiasticall persone holdeth of his Lorde by certayne dyuyne seruyce to be done, as to synge masse euery fryday in the weke, or Placebo and dirige, or to finde a preest to synge masse or to distribute in almes .x. pens to a hundreth men at such a day: in all these cases, yf such diuine seruyce be vndone, the lorde may very well distrayne, bycause the seruice is put here in certayntye.

Distresse for diuyne seruīce

¶ Nowe I sayde, that if in olde tyme a man dyd infeoffe such ecclesiastical ꝑson after suche sort, he shulde holde his landes in franke almoyne, but at this daye it is otherwyse, for by the reason of a statute called, Quia emptores terrarum. Westm. iii. capi. i. No man cā aliene

ne

ne graunt landes or tenementes in fee symple to holde of hym selfe, so that now yf a man beynge sealed of landes in fee symple graũteth the same by lycence to an ecclesiasticall person in francke almoyne these wordes francke almoyne be voyde, and the ecclesiasticall person shall holde them immediatly of the lorde of the feoffer by the same serujces þ the feoffer held, so that no man can holde in francke almoyne, but by force of a graunt made before the sayde statute, onely the kynges maiestie excepted, for he is out of the compasse of the statute.

¶ Fynally, ye shall note that where as a man holdeth in frãcke almoyne, his Lorde is boũde by the lawe to acquite hym of all maner of seruyce that any other Lorde can haue or demaũde out of the sayde landes.

¶ That yf he doth nat acquite him but suffre him to be distreyned, thã he shal haue agaynste his lorde a certayne wrytte, called a wrytte of meane, and shall recouer agaynst hym his damages and costes of his suyte. Wryt of meane.

¶ Of burgage.

A Tenure in burgage, is where an auncient broughe is, of which the kynge is lorde and they whiche haue tenemẽtes with in the same broughe holde the same of þ kyng payenge a certayne yerly rent, which tenure, in effecte is but socage tenure. Lykewyse it is, where as any other lorde spirituall or temporall is lorde of such broughe. Socage tenure.

☞ Here ye shall note that for the most parte such auncient broughes and townes haue dyuers customes & vsages which other townes haue Customs

haue nat. For some broughes haue a custome that the yongest sonne shall inherite before the eldest, which custome is called cōmōly brough Englysche.

Dower by custome.

¶ Also in some broughe by the custome the woman shall haue for her dower all the landes and tenemētes wherof her husbād was sealed at any tyme durige ꝑ matrimony & couerture.

Deuyse by custome of broughe.

¶ Moreouer in some broughes a man maye bequeath and deuyse his landes or tenementes by testamēt at the tyme of his death, and by force of such deuyse or legacy, he to whome the bequeste was made, after the death of ꝑ testatour whiche made such testament may be force of this auncyent custome entre into the landes so to hym bequethed or deuised without any liuery of sealone to hym made or further ceremonye of lawe.

☞ Howbeit how and in what maner a man may at this daye deuyse his lande by his laste wyll and testament by force of a certayne newe statute, it shalbe herafter declared.

¶ Dyuers other customes in Englande there be contrarye to the course of the common lawe whiche yᵗ they be any thynge probable & maye stande with reason are good and effectual, nat withstādige they be against ꝑ cōmon lawe.

☞ And note that no custome is allowable but suche custome as hath be vsed by tytle of prescripcyon or tyme out of mynde.

¶ Of vyllenage or bonde seruyce.

A Tenaunt in vyllenage is properly whā a vyllayne, that is to saye, a bondeman holdeth of his lorde, whose bondeman he

he is, certayne landes or tenementes, accordige to the custome of the Manoure, or other wyse at the wyll of his Lorde, and do to his Lorde vyllayne seruyce, as for to beare and to carye the donge of his Lordes out of the Cytye, or out of his lordes Manour, and to lay it vpon ỹ demeane landes of his lorde, or to do suche lyke seruyle and vyllayne seruyce. How be it free men in some places holde theyr tenemẽtes and landes of theyr Lordes by custome, by such sorte of seruyce, and theyr tenure is called tenure in vyllenage, and yet they them selues be no vyllaynes ne of seruyle condicion but fremẽ For ỹ lãde holdẽ in vyllenage maketh nat ỹ tenaunt a vyllane, but contrary wyse a vyllayne may make free lande to be vyllayne lande vnto his lorde. As yf a vyllayne, purchaseth lãde in fee symple or in fee tayle, the Lorde of the vyllayne may entre into the lande so purchased by his bondman & put him and his heyres out for euer, & this done, the lorde yf he wyll may lease the same lande to his vyllayne to holde of him in vyllaynage.

Howe some holde in villenage and be no villeyns.

¶ And here ye shall vnderstande, that seruitute or villenage is the ordinaunce, nat of the lawe of nature but of that law, which is called Jus gentium, by which a mã is made subiecte, contrary to nature, vnto an other mans dominion. For he that is a vyllayne or bondman, eyther he is so by tytle of prescripcion, that is to say, he and his auncestours haue bene vyllaynes tyme out of mynde, or els he is a vyllayne by his owne confession in courte of recorde, so ỹ all vyllaynes eyther they be borne vyllaynes, or elles they be made so. They be

Diuisiõ.

borne vyllaynes whan theyr father beynge a bonde man hym selfe begetteth them in lawful wedlocke, eyther of a free woman or of a bond woman for so that the father be bonde, the issue of hym lawfully begotten must nedes be bonde by the lawes of Englande, hauynge no regarde to the condicion of the mother, where as in the cyuyll law of the Romanes it is clene contrarye. For there, partus sequitur ventrē, that is to say: the seruitute or bondage of the mother maketh the chylde bonde and nat the bondage of the father. Howe be it the bastarde sonne of a bondeman shall nat be bonde and ꝑ reasō is bycause a bastarde is, Nullius filius, in the lawe, that is to say nomans sonne.

Bastarde

¶ They be made bondmen or vyllaynes two wayes, eyther by theyr owne proper acte, as whan a free ꝑson beynge of full age wyll come into a court of recorde, & there confesse hym selfe bonde to another man.

☞ Or elles by the lawes of Armes called, Jus gentium: as whan a man is taken prysoner in warres, and is compelled to serue and become the thrall and bondeman of hym that toke hym, the lawe calleth such person a vyllayne that is, to say a slaue and thrall.

¶ And ye shall note that vyllaynes be properly called in Latyn serui, bycause ꝑ whan they be taken in war, the capteines be wont nat to kyll them, but to sell them, and so to saue theyr lyues, so that they be called serui a seruando, ꝑ is to say of sauynge. They be also called Mancipia, a manu capiendo, bycause that they be taken by hande & power of theyr ennemyes.

Diffinicion of villayns

☞ Nowe as I sayd by the lawe of nature we

we are all borne free, but after that by the law of Gentilitie, seruytute or bondage dyd preese and inuade the worlde, than ensued the benefite of manumission. Manumission is quasi de manu datio, that is to say a gyuynge out of of the hande or power. For so longe as a man is in bondage and seruitute, he is subiecte to ꝑ hande and power of another and whan he is manumissed he is made free and deliuered frō the sayd power, so that a manumission is no thynge elles than an enfranchisement that is to say, a wrytynge testifyenge that the Lorde hath enfraunchised his vyllayne and all his ofspryngе and sequell.

Manumission.

¶ Also if the Lorde maketh to his bondeman an obligation of a certayne sume of money or graunteth to hym by his dede an annuitie or yerly pension, or leaseth to hym by dede landes or tenementes for terme of yeres, any of these actes do imply an enfranchisement.

What actes maketh manumissiō in lawe.

☞ Lykewyse yf the lorde maketh a feoffement to his vyllayne, and maketh vnto hym lyuery of seisin, this also is an infraunchisemēt and secret manumission. Briefely to speke, where soeuer the Lorde cōpelleth his vyllayne by the course of the lawe to do that thynge ꝑ he myght otherwyse enforce hym to do or to suffre without the auctority and compulsyon of the lawe, he doth by implication enfrāchise his vyllayne, as yf the Lorde wyll bryngе agaynste his vyllayne an accion of det, an actiō of accompt, of couenant or of trespace, these & such lyke be in the eye of the lawe enfranchisementes & manumissions, bycause ꝑ the Lorde in all these cases may haue the effecte and pur-

Cause of infraunchisemēt.

pose of his suite (that is to saye) the goodes catels, and correction of his bondman without ꝑ cõpulsion of ꝑ lawe euen by his owne proper power and aucthoritie which he hath vpõ his villayne. But yf the Lorde dothe sue hys villayne by an appeale of felonye, the villayne tryenge lawfully endyted of the same before, this is no tacite manumission or infranchisemente, for the Lorde though he haue power to beate his villayne and to spoyle hym of his goodes, yet he can nat by the lawe of this realme put hym to deathe.

¶ Ye shall also vnderstande, that yf a mans bondman purchased landes or acquyre & gette vnto hym any other thynge ꝑ lorde may forthwith entre, and ceale the same into his owne handes. Wherfore if the lorde wyll bringe agaynst his villayne a Precipe q reddat, by which he demaũdeth agaynst his villayne any landes or tenementes, this implyeth an infrãchisemente, for almuch as he byndeth hi selfe to the prescripte & authoritie of the lawe, wher as he myghte vse his owne authorytie, by entrynge and sealynge the sayde landes.

Diuisiõ. ¶ Fynallye ye shall marke ꝑ some villaynes be called villaynes in grosse, and other some be called villaynes regardant. In grosse be they of which the lorde is severally sealed, and nat by reason of any lordeshyp or maner, but they be called regardant whiche do belonge to a manoure, or which the Lorde is sealed, and the sayde villaynes haue bene regardant, that is to saye, expectant and attendant tyme oute of mynde to the lorde of the sayde Manour in doynge vnto him suche seruyces as to a vil-

Villeyne in grosse

Villeyne regardãt

layne appertayne.

¶ Of Auncyen demene.

There is also a certayne kinde of tenure which is called auncien demene, & that tenaũtes which holde by this seruyce be free holders & holde by charter & nat by copy of courte rolle, or by the verge after the custome of ỹ manour at the wyl of the lorde. And these tenauntes be such as holde of those Manours which were sayne Edwardes ỹ kynge or which were in thandes of kynge Wyllyam the conquerer, and these Manours be called the auncien demesnes of the kynge or ỹ aũcien demesnes of the crowne of Englande And to such tenaũtes which holde of such manours be many and diuerse liberties gyuen & graunted by the lawe, as to be quite of tolle & passage & such lyke impositions which be demaũded of mẽ for theyr goodes & catelles solde or bought in fayres & markets by them, also to be quyte and free of taxes and tallage graunted by parlyament, except that ỹ kynges maistie do taxe aũcien demene (as to him onely appertayneth) whan he thynketh good for great and vrgent considerations Tenaũtes also of auncient demeane ought to be quite of paymentes to therpences & charges of the knyghtes which come to the parliamẽt, also they ought nat to be impanelled nor put in iuries and in questes in the coũtry out of theyr manour or seignorie of aũcien demeane for the landes which they holde of such manour, onles they haue other landes at the cõmon lawe for which they ought to be charged. And yf such tenauntes or any of thẽ

whiche

which holde of the Manour of auncien demene be distreyned to do vnto theyr lorde other seruyces or customes thē they or theyr auncestours haue vsed to do, then may they sue a certayne wryt called Monstraucrūt directed to ꝑ lorde, cōmaūdynge him that he distreine them nat for to do other seruyces or customes then they haue ben accustomed to do.

Wryt of monstraucrunt.

¶ And for further knowlege hereof ye shall vnderstande that in the Eschequer there is a boke called Domesday which boke was made in the tyme of the sayd saynt Edwarde. And all the landes which were in the seisin and in the hādes of ꝑ sayd saynt Edwarde at ꝑ tyme of the makynge of the sayd boke be auncien demene. But the landes which thē were in other mens handes thoughe they be wrytē in ꝑ sayd boke, be franke fee & no auncien demene.

Francke fee.

¶ Finally it is to be noted, that tenaūtes of auncien demene shall nat be impleded for theyr sayd lādes out of the manour where of they so holde, and yf they be, they may shewe the mater and abate the writte. But yf they ones answere to the wrytte, & iudgement gyuen, then the landes haue loste the nature and benefyce of auncien demene, and are become frācke fee, that is to say, pleadable at the commen lawe for euermore. And this haue we spoken of the diuersitie of tenures.

Abatemēt of ꝑ wrytc.

☞ Of rentes.

FOr almuche as vpon euery tenure there is cōmonly reserued one rēt or other therfore I thynke it good sumwhat to treate of rentes. But ye must vnderstande that there be

be sundry sortes of rentes. There is one kynde of rent which is called rent seruyce. Another which is called rent charge, & the thyrde which is named in frenche rent seche, that is to saye in Latyn redditus siccus, a drye rent. Nowe rent seruyce is so called bycause it is knyt to the tenure, and is as it were a seruyce, wherby a mā holdeth his landes or tenemētes, or at lest way when þ rentes vnseuerably coupled and knyte with the seruyce as for an exemple, where the tenaunt holdeth his lāde of the kynge or of any other Lorde by fealte & by certayne rent or by homage, fealtye and certayne rent, or by any other sortes of seruyces & by certayne rent, this rent is called rēt seruyce. And here ye shal note that yf this rent seruyce be at any tyme whē it ought to be payde, behynde and vnpayde, the lorde of whom the lande or tenement is so holden, whether it be in fee symple, fee tayle for terme of lyfe, for yeres or at wyll, may of common ryght entre and distrayne for the rente, though there be no mencyon at all, ne clause of distresse put in the dede or lease. I sayd before that þ nature of this rent seruyce is to be coupled and knyte to the tenure. For wher no tenure is, there can be no rent seruyce. And therfore, yf at this daye I be seised of lādes in fee simple, and make a dede of feoffement of the same to another in fee simple, reseruynge by þ same dede a rent, this can be called no rent seruyce, bycause there can be nowe no tenure betwene the feffour and the feffee. Otherwyse it is of feffemētes in fee simple, made before, þ statute of Westwester the thyrde. Capi. i. called Quia emptores terrarū. For before þ makynge

Dyuysion of rēt seruyce.

Distresse of cōmō ryght.

kyng of that statute, yf a man had made a feoffement in fee simple, reseruynge to hym a certayne rēt, yet though it had bene without dede there had bene begonne & created a new tenure betwene the feffour and the feffee, & the feffee shulde haue holden of the feffour, who by vertue of the same myght of cōmon ryght haue distreyned for such rent. But at this day by force of the sayde acte, there can be no such holdynge or tenure created or begonne, and consequently no rent seruyce can be at this daye reserued vpon any gyfte in fee simple, except it be in the kynges case, who beynge chief lorde of all euer myght and may gyue lādes to be holdē of him Thus ye se, that at this day, no subiecte can reserue any rent seruyce vnto him onles the reuersion of the landes or tenementes ẏ he shall graunt, be styll in him, as where he graunteth them in fee tayle, or maketh but a lease for terme of lyfe or for certayne yeres or elles at wyll For in all these cases the reuersion of the fee simple remayneth styll in him, and therfore yf there be any rent reserued, it is to be called a rēt seruyce, and is of common ryght distreynable though there be no clause of distresse in ẏ dede of feffement or lease.

¶ But here ye wyll aske me, when in the case before remembred, a man at this daye gyueth cleane away the lande or tenemente fro hym selfe in fee simple, so that there is no maner of reuersion of the same remaynynge in hym at al and yet neuertheles reserueth vnto hym by his dede a certayne rēt what maner rent shall this be called? I answere, yf there be in the dede indented any clause of distresse, that is, that if ẏ

rent

rent be behynde vnpayed, it shall be lawfull for the feffour to entre and to distrayne, it is called a rent charge, for als much as the lande is charged therwith, but howe? of cõmon ryght? no, but only by vertue & force of the wrytynge. Rente charge.

¶ But on the otherside, yf there be no suche clause of distresse put in the indenture, thã ỹ rent so reserued shalbe called a rent secke. Rẽt secke

¶ Lykewyse, yf a man that is seysed of certayne landes, wyll graunt eyther by indenture, or by his dede polle that is to say single & nat indented, a yerly rent out of the same lãdes to another, whether it be in fee symple, fee tayle, for terme of lyfe, for yeres or at wyll, w̃ clause of distresse, thã this rent is called a rent charge and he to whom such rent is graũted may for defaute of payment therof, entre and distrayne But contrarely, yf the graũt be made without any such clause of distresse, it is called rẽt secke that is to say a dry rent, bycause he can nat come to it in case it be denyed, by way of distresse in so much that yf he were neuer seysed of it, he is by the course of the cõmon law without remedye. Otherwyse it is of a rent charge for here he to whome the graũt is made, when the rent is behynde may chose whether he wyll sue a wryte of annuite agaynst the grauntour or distrayne for the rent behinde, & retayne the distresse tyl tyme he be paide accordingly. But he can nat haue both remedyes togyther but must take hym to the one, for yf he ones recouer by a wryte of annuite, then is the lande discharged. And yf he sew nat his wryte of annuite, but dystrayne for the arrerages, and the tenaũt seweth a repleuin, where vpõ the other Annuite. Replevi.

auoweth

Estopel. anoweth the takynge of the dystresse in courte of recorde: then is the lande charged and the person of the grauntoure discharged of the action of annuite.

¶ Ye shall also vnderstande, ꝑ yf a man wyll that another shall haue a rent charge cõmynge out of his lande, and yet wyll nat that his person shall be any meanes charged by wrpt of annuitie, he may than haue such clause in ꝑ ende of his dede.

Prouiso

Prouiso ꝙ ꝓsens scriptum, nec quicq̃ in eo contentum vllo pacto se extendat ad oncrandã̄ personam meam per breue seu actionem de annuitate, sed tantummodo valeat ad oncrandum, terras, fũdos, et tenemẽta mea de annuo redditu predicto. If this or such lyke clause be added, then the lande is charged and the ꝑson of the graũtour is discharged.

¶ Also yf a man wyll make a dede of graunt in this wyse, that yf Johñ at Style be nat yerly payde at the feast of Chrystmas for terme of his lyfe. xx. shyllynges verlynge, ꝑ then it shalbe lawfull for ꝑ sayd Johñ at Style to distrayne for it in the Manour of Dale, this is a good rent charge, bycause the Manour is charged with the rent by way of distresse, and yet neuer theles in this case the person of hym ꝑ made such dede is discharged of any actiõ of annuite forasmuch as he graunted nat by his dede any annuitie to the sayde Johñ at Style but onely graũted, ꝑ he myght distraiñ for such yerly rẽt

¶ Further more ye shall note, that yf a man hath a rent charge to hym and to his heyres cõmynge out of certayne landes, and doth purchase any parcell of this lande to hym and to his heyres, in this case the hole rent charge is

quenched

quenched and gone, and the annuitie also, the cause is this, that a rent charge can nat be in such case appoynted. Otherwyse it is of a rent seruyce, as for example yf one which hath a rent seruyce, of .xx. ℔. by yere doth purchase parcell of the lande oute of whiche this yerely rent of .xx. ℔. is cõmynge this shall nat extynguych nor drowne the hole rent, but for that parcell onlye. For rent seruyce in such case maye verye well be appoyction and rated accordynge to the value of the lande. Yet there be sortes of rentes seruyces whiche in no wyse cã be appoyncyoned. As where a tenaunt holdeth his lande of his lorde by the seruyce to rendre to his lorde yerly at such a feaste, an horse, a rynge of golde, a redde rose, a gylouer, or such lyke, yf in this case ꝑ lorde doth purchase parcell of the lande thus of hym holden, this seruyce is gone, by cause such seruyce, cã nat be severed nor appoyctioned. Also escuage is a seruyce ꝑ may very well be appoyctioned accordinge to the afferaũce and rate of the lande.

Extiguiſ ment.

Rentes seruyce cã nat be appoyctioned.

¶ But where any lande is holden by homage and fealtie, if the lorde purchaseth parcell of the lande, yet he shall haue his homage and fealtie styll of his tenaunt.

☞ Ye shall marke also, that yf a mã maketh a lease of landes to another for terme of lyfe, reseruynge to him certayne rent: yf in this case he graunteth the rente to Johñ at Style sauynge to hym selfe the reuersion of the sayde lande, this rent is but rent seche bycause Johñ at Style that hath the rent, hath nothynge in reuersion of the lande.

But yf he graunteth the reuersion of the lãde

Atturnment.

to Johñ at Noke for the terme of lyfe and the tenaunte atturneth accordyngly, then hath Johñ at Noke ꝑ rent as rent seruyce bycause he hath the reuersion for terme of lyfe.

¶ Lykewyse it is, yf a man gyueth landes or tenementes in tayle, reseruynge to hym and to his heyres certayne rent, or maketh a lease of the lande for terme of lyfe, reseruynge certaine rent, yf he graunteth the reuersion to another and the tenaunt atturneth accordyngly, ꝑ hole rent and seruyce shall passe by this worde reuersion, bycause the rent and seruyce in suche case be incydent to the reuersion & do passe by the graūt of ꝑ reuersion. But yf he had graūted ꝑ rent onely, the reuersion had nat passed.

Rente is incidēt to a reuersion.

¶ What remedy a man hath to recouer his rent when it is behynde.

I shewed you before, that for a rent seruyce yf it be behynde ye may distrayne in ꝑ groūde euen of cōmon ryght though there be no such clause of distresse mencyoned in the dede of feoffement, graunt or lease Also for a rēt charge ye may distrayne or bryng your wryte of annuitie at your choyse & election, as before is declared. But of a rent secke yf ye were neuer seysed of it nor of any parcell therof, ye be without remedy by course of the cōmon lawe, for ye can nat distrayne for it, nor yet bryngе your wryt of annuite but yf ye were ones seysed of it or of parcell therof and it is eftsones behynde, thē your remedy shalbe this.

Ye

Ye muste go eyther by your selfe or by your de-
bite to the lande or tenement out of whiche the
rent is cõmynge and there demaũde the arre-
ragies of the rent, which yf the tenaunt deuye
to pay, this denyall is disseisin of the rent. Also
yf the tenaũt be nat then readye to pay it, this
counteruayleth a denyall which is a dissayed.
Moreouer yf neyther the tenaunt nor none o-
ther man be remaynynge vpon the grounde to
pay the rent, when ye demaunde the arrera-
gies, this also is a denyall in the lawe, and is
in very dede a disseisin. And of these disseisi-
nes ye may haue an assise of nouell disseisin a-
gaynst the tenaũt, and shall recouer seisin of ỹ
rent and the arreragies and your damagies &
costes of your wryte and of your plee. And yf
after such recouerye & execution had, the rent
be agayne at another tyme denyed you, then ye
maye haue redisseisin and shall recouer your
double damages. &c.

Disseisin of rent sette.

Assise.

Inredis-seisi double damages.

¶ It shalbe therfore wysedome for a mã whẽ
a rent is graunted by any personne vnto hym,
to take of the tenaunte of the lande a peny or
an halfpeny in name of seisin of the rent, and
thẽ yf at the next day of payment ỹ rent be de-
nyed hi, he may haue an Assise of nouel disseisi.

¶ And ye shall note, that there be thre cau-
ses of disseisin of rẽt seruyce, that is to wyte re-
scoulse, repleuin, and inclosser. Rescoulse is whẽ
the lorde vpon the lande holdẽ of him distray-
neth for his rent behynde, and the distresse ys
rescued from him, or yf the lorde come vpon ỹ
lande and wyll distrayne, and the tenaunt or
any other man for hym wyll nat suffre hym,
this is called Rescoulse.

Thre cau-ses of dis-seysin of rent ser-uyce.

Rescous

Repleui

¶ Repleuin is, when ꝑ lorde hath distrayned and repleuin is made of the distres by wrytt or by playnt.

Encloser

Encloser is wher lãdes or tenemẽtes be so inclosed that ꝑ lorde cã nat come with the landes or tenemẽtes for to distrayne. And the chiefe cause why such thynges so made be disseisins to the lorde is forasmuch as the lorde is by this way disturbed of the meane and remedy wherby he ought to come and haue hys rent, that is to wete, by distresse.

iiii. causes of dissesin of rẽt charg

¶ And there be foure causes of disseisin of a rent charge, that is to wete, rescous, repleuin encloser, & denyer. For denyer or deniall is as wel a desseisi of a rẽt charge as it is of a rẽt seck

And ii. of rẽt secke

☞ Fynally ye shall vnderstande, that there be two causes of disseisin of a rent seck, that is denyall and encloser.

One other cause of disseisin.

¶ And it semeth that there is yet another cause of disseisin of all the thre rentes afore sayde, that is to wete this, when the lorde commeth to the lande holden of him, or when he ꝑ hath a rent charge or a rent secke cõmeth to the lande to distrayne for the rent behynde, and ꝑ tenaũt hearynge this, encountreth hym, and forstalleth hym the way with force & armes and manaceth hym in such sorte as he dare nat come to the grounde for to distrayne for his rent behynde for feare of death or mutilation of his mẽbres: this is a disseysin bycause the partie is disturbed of his mene and lawfull remedy wherby he ought to come to his rent.

Acte of ꝑliament.

¶ Fynally ye shal obserue and marke, that by an acte of parliament made in the. xxxii. yere of our soueraygne lorde kynge Henry ꝑ eyght, it is lawful for the executours and administra-

tours

tours of tenātes i fe: ſiple, tenāt i fee taile tenā
t for ẏme of lyfe, of rēt ſeruyces, rēt charges, rēt
ſeckes, & of fee fermes, for arreragies of ſuche
rentes as were due vnto theyr teſtatours in
theyr lyues, eyther to diſtrayne for ẏ ſame or
at theyr election to bryngē an action of det, ex-
cept in ſuch lordſhyps in Wales or in the mar-
ches therof, where as the tenauntes haue vſed
tyme out of mynde to paye vnto euery lorde at
hys fyrſt entrye into the lordſhyp any ſūme of
money for the redemption of all maner dutyes
& penalties incurred at any tyme before their
lordes entrye.

Diſtres or actiōs of dette.

☞ Alſo by force of the ſayd acte the huſbāde
which was ſeiſed in ẏ ryght of his wyfe maye
after ẏ death of his wyfe eyther diſtrayne or
bryng an action of det for ẏ arreragies of ſuch
rentes as were due & vnpayd in her lyfe.

¶ Lykewyſe it is of hym ẏ hath a rente for
terme of an other mans lyfe, if he for terme of
whoſe lyfe he hath the rent dyeth, yet by vertu
of the ſayde acte he or his executours & admini-
ſtratours may eyther diſtrayne or bringe an ac
tion of det for ẏ arreragies due before ẏ death
of hi for terme of whoſe lyfe he had ẏ rent.

¶ How Auowtyes ought to be made of rentes and ſeruyce, inacted Anno. xxi. Henrici. viii.

Where any landes be holden of any per-
ſon by rentes, cuſtomes, or ſeruyces,
yf the lorde diſtrayne vpon the ſame
landes for any ſuche rentes, cuſtomes, and ſer-
uyces, and repleuyn therof be ſued, the lorde

maye auowe or his bayliffe or ſeruaunt maye make conuſaūce or iuſtifie the takyng vpon the ſame landes, as within his fe and ſeignorye, alledgynge in ꝑ ſayd auowrye conyſance or iuſtification ꝑ ſame londes to be holden of hym, without namynge any perſon certayne to be tenaunt of the ſame, & without makynge any auowrye, iuſtification, or conyſance vpon any perſon certayne. And lykewyſe vpon euerye wrytt ſued of ꝑ ſeconde delyuerance. And they that make any ſuch auowrye, iuſtification or conyſaunce, yf the ſame auowry, cōuſaūce or iuſtification be foūde for thē, or ꝑ plaintyfe be nonſute or otherwyſe barred, then they ſhal recouer theyr hole damages and coſtes.

Seconde deliuerāc

Damages.

¶ Alſo the ſayd playntiffes & defēdaūtes ſhal haue lyke plees & lyke ayde prayers (plees of diſclaymer onely except) as they myght haue had before the makynge of this acte.

Plees in auowrie.

Alſo ſuch perſones as by the cōmon lawe may ioyne to ꝑ playntyfe or defendaūt in the ſayde wrytt of Replegiare or ſeconde delyueraūce, as wel whout proceſſe as by proceſſe, ſhal frō hēſforth alſo in this caſe ioyne vnto them as well without proceſſe as by proces, and haue lyke plees and lyke auaūtages in al thinges (diſclaymer only accept) as they myght haue by the cōmon lawe before this acte.

¶ An acte for the aſſuraūce of fermoures, made. Anno. xxxii. Henrici. viii.

ALl leaſes hereafter to be made of any lāds or other hereditamētes by wrytyng indented vnder ſeale for terme of yeres or for terme of lyfe by any perſons beynge of

the

of ꝑ age of xxi.yeres hauing any state of inheritaunce eyther in fee symple or in fee tayle in theyr owne ryght or in ꝑ ryght of theyr churches or wyues, or ioyntly wt theyr wyues shall be good and effectuall agaynst ꝑ lessours theyr wynes heyres and successours accordynge to the state cõprysed in such indenture of lease.

¶ Prouyded that this acte shall neyther extẽde to any leases to be made of any landes hereditamentes beynge in the handes of any fermour by vertue of any olde lease onles ꝑ same olde lease be expyred surrẽdred or ended within one yere after the makynge of the newe lease, nor yet to any graunt to be made of ꝑ reuersion of any landes or hereditamẽtes, nor to any lease of such landes or hereditamẽtes as haue nat commonlie bene letten to ferme by ꝑ space of.xx.yeres next before suche lease therof made nor to any lease to be made without impeachement of waste, nor to any lease to be made aboue ꝑ nombre of.xxi.yeres or thre lyues at the most from the day of makynge therof. And ꝑ vpon such lease be reserued yerlye durynge the same, due and payeable to the lessours theyr heyres and successours to whom ꝑ lãdes shulde haue come after the deathes of ꝑ lessours & to whom the reuersion therof shall ptayne accordynge to theyr estates and interestes, so much yerly rent or more, as hath ben accustomably yeldynge for the same within.xx.yeres next before such leases, and ꝑ he to whom ꝑ reuersion therof shall pertayne after the deathes of such lessoures or theyr heyres: shall haue suche lyke remedy and aduauntage agaynst ꝑ fermours therof theyr executours and assignes, as the

Surrender of ꝑ olde lesse.

lessour him selfe shulde haue had.

The wife shalbe ytie to the lease.

¶ Prouyded also that ỹ wyfe be made partye to euery such lease as shalbe made by her husbande of any landes beynge the inheritaũce of the wyfe, and that euery such leale be made by indenture in the name of ỹ husbande and his wyfe, and she to seale there vnto. And that the rent be reserued to the husbande & wyfe & to ỹ heyres of the wyfe accordynge to her state of inheritaũce therin. And that ỹ. husbãde shal in no wyse aliene discharge graũt gyue awaye ỹ same rent reserued nor any part therof longer thẽ durynge ỹ couerture, without it be by fyne leuyed by the sayde husbande and wyfe.

¶ Prouyded furthermore that this acte extende nat to gyue lyberty or power to any persõs to take any mo fermes leases or takyng of any landes or other hereditamentes, then they myght haue done before the makynge of this acte, nor yet extende to gyue any lyberty to any persone or vicare of any churche or vicarage for to make any leale or graunt of any theyr messuages landes, tenementes, tythes profytes, or hereditamentes belongynge to theyr churches or vycarages otherwyse then they myght haue done before the makynge hereof.

Anno. xxxii. Henrici. viii.

What graũt by a corporacion is good.

¶ It is furthermore enacted that ỹ graunt leale, gyft or election of the gouernor or ruler of any hospitall, college, deanry or other corporacion with thassent of the more part of suche of the same as haue voyce therunto shall be good and effectuall, any rule or statute made by any founder to the contrary natwithstandynge.

of

¶ Of falsifyenge of recouerpes by termers inacted Anno.xxi.Henrici.viii.

ALL fermers or lessees for terme of yeres may falsifye for theyr terme onely, recouerpes had by fayned tytles aswell as a tenaunt of freholde. And the same, fermours theyr executoures and assignes shal enioye theyr sayd termes accordynge to theyr leases agaynst such recouerpes euen as yf none such had be suffered. In which case neuertheles the recouerer, after such recouery had, shall haue lyke remedie against ỹ termers by auowrye or action of det for rentes and seruices reserued vpon the same lessees beynge due afore the same recoueries, and lyke actions for wast done after the same recouerpes, as the lessours myght haue had yf no suche recouery had be had. Furthermore no statut estaple, statut marchaunt, nor execution by elegit shal be auoyded by any such fayned recouery, but lyke remedy shall be had to auoyde and falsifye the sayd recouerpes, as is ordayned for ỹ fermour or lesse for terme of yeres.

Auowrie or action of det.

¶ Of tythes and howe they shall be recouerd, innacted. Anno.xxxiii. Henrici.viii.

ALL persones shall truely paye theyr tithes and offrynges accordynge to the lawfull customes & vsages of paryshes & places where such tythes or dutyes be due. And yf they do wylfullye withholde any parcell of them: the partye wherther he be ecclesiasti-

ecclesiasticall or laye that shulde haue them, may conuent such persons before the ordinary his compyssary or other cõpetent ministre or iudge of ỹ place wher such wronge shal be done accordynge to ỹ ecclesiasticall lawes. And in euery such cause of suyte the same ordynary or iudge hauynge the partyes or theyr procuratours before hym, shal proceede to ỹ determinacion therof ordynaryly or summaryly accordynge to the course of the sayd lawes, & there vpon shall gyue sentence accordynge.

And in case any of the partyes for any matter concernynge that sute, do appeale from ỹ sentence and dyffynytyue iudgement of the sayde iudge, then ỹ same iudge forth with vpon appellacion made, shall adiuge to the other partye the reasonable costes of his suite, and shall cõpel the same partie appellãt to pay ỹ same by compulsary processe censure of the sayd lawes takynge surete of the other partie to whome such costes shalbe adiudged to restore the same to the appellãt, yf afterwarde, the principall cause of that suit of appeale shalbe adiudged agaynst him. And so euery iudge ecclesiasticall shall adiudge costes to the other partie vpon euery appeale to be made in any sute or cause of subtraction or detencion of any tythes or offerynges or in any other sute to be made concernynge the dutie of such tythes or offeringes. And if any persons after such sentence gyuen agaynst them shall obstinately refuse to paye theyr tythes or duties or such somes of monye so adiudged wherin they be condemned, then two Justices of the peace of the same shyre, wherof one to be of the quorum, shall vpon certifi-

Surete.

Justices of peace.

certificat or complaynte to them made in wry-
tynge by the iudge that gaue the sentēce, cause
them to be attached and commytted to ꝑ nerte
Jayle, there to remayne without bayle or main
prysle, tyll they shall haue founde sufficient sa-
reties to be bounde by recognisante or other
wyse before ꝑ same iustices to the kynges vse
for the performaunce of the sayd iudgement.
¶ Prouyded, that no person shall be sued or
otherwyse cōpelled to pay any tythes for any
landes tenementes or hereditamentes whiche
by the lawes of this realme are discharged or
nat chargeable wᵗʰ ꝑ paimēt of any such tithꝭ.
¶ Also this acte shall in no wyse bynde the in
habitantes of Lōdon and suburbes of ꝑ same
to pay theyr tythes and offrynges within the
same cytye and suburbes otherwyse then they
shulde haue done before.
¶ Furthermore if any hauynge an inheritāce
freholde terme or intrest in any ꝑsonage vica-
rage porcion penciō tythes oblations or other
ecclesiasticall profyte made or to be made tē-
porall or admitted to be in tēporall hādes by ꝑ
lawes or statutes of this realme, be disseised or
otherwyse put from ꝑ same by any other per-
son clāmynge to haue interest therin: the perciō
so disseised or wrongfully put from his sayde
ryght or possession his heyres, wyfe, and other
to whō such wronge shal be done, maye haue
remedy in the kynges tēporall courtes, as the
case shal require for ꝑ recouery therof by wryt-
tes original of præc ꝙ reddat, ass. of nouell dis-
seison, mortdanc. Quod ei deforciat, wrytte
of dower, or other writtes originall to be grau-
ted in the chaūcery of euery such personage,
vycarage,

vicarage, pozcion, penſion, oz other pzofyte eccleſiaſticall accozdinge to ꝑ nature of the ſute therof. And wzytes of couenãt & other wzyttes foz fines to be leuied & all other aſſurancies to be made of any ſuch perſonage oz pzofyte eccleſiaſticall ſhalbe deuyſed and graunted there, lyke as hath bene vſed foz fynes to be leuied & aſſurance to be had of lãdes oz other hereditamentes, and al iugementes gyuen vpon ſuche wzyttes oziginall graũted foz any ꝑ premiſſes and all fines leuied & knowleged in any of ꝑ kynges layde courtes therof, ſhalbe of lyke fozce as iugemẽt gyuen & fines leuied of lãdes tenemẽtes and hereditamentes.

¶ Of moztuaryes, inacted. Anno. xxi. Hen. viii.

NO perſone ſpirituall theyr fermers noz bayliffes ſhal cal any perſon befoze any iudge ſpirituall foz the recouery of any Moztuaryes moze then is herafter mencioned vpon payne to fozfet foz euery tyme ſo much in value as they ſhall take aboue the ſumme here lymited and ouer ꝑ. xl. s, to ꝑ party greued, foz which he ſhall haue an accion of det by wzytte byll oz infozmation, wherin no wager of lawe eſſoine noz ꝓtection ſhalbe alowed. Fyzſt no moztuarye ſhalbe taken of any whiche at his death hath in mouable goodes vnder the value of. x. marke. Alſo no Moztuaey ſhall be taken but onely where Moztuaryes haue bene vſed to be payde, and there after the fozme her after mencyoned. Noz in no mo places but one that is to wyte, there where his moſt abydinge is and there but one. Noz no perſone ſhall take

foz

for a Mortuary of any persone dyenge at his death at the value of.x.markes aboue his dettes payde & vnder.xxx.li.aboue.iii.s.iiii.d. And of the value of.xxx.li.and vnder.lx.nat aboue. vi.s.viii.d. And of the value of.lx.or aboue to any summe what so euer it be,nat aboue.x.s. Also no Mortuary shall be asked nor payde for any womã couert barõ, or childe or any plõ nat keppynge house,or for any wayfaryng man but the Mortuaryes of such wayfarynge men be answerable in that place where they had theyr most dwellynge at the tyme of theyr death.

¶ Neuertheles such spirituall plon may take any thynge which shall be dispoled or bequethed to hym or to the hygh aulter of ỹ churche. Also nothynge shall be taken for Mortuary in Wales nor the marches of ỹ same,nor in Calys or Berwyke or the marches of the same, but onely in suche places of the same where Mortuaryes haue bene accustomed to be payde and there but onely after the forme aboue specified, Prouyded that ỹ Bysshops of Bãgar, Lãdafe,saynt Dauies and saynt Asse & thartheken of Chester may take such Mortuaryes of the preestes within theyr diocises and iurisdictions,as heretofore haue bene accustomed. Prouyded also,that in such places where mortuaries haue bene accustomed to be taken of lesse value none shalbe compelled to paye anye other Mortuary or more for any mortuarye thẽ hath bene accustomed , nor no mortuarye there shalbe demaunded of any person exẽpt by this acte vpon payne afore lymytted.

¶ Of discontinuaunce.

It is

Of discontinuance.

It is called a discontinuaunce by the lawes of Englãde, whẽ he that hath the possession of landes or tenementes for the tyme presente and yet nat hauynge the fee symple in hym selfe nor in his owne ryghte onely, maketh an alienacion of the same to another, by reason wherof, he that shulde haue them after hym and which then hath ryght vnto them can nat entre, but is dryuen to his remedy by way of actiõ, in such wyse that ỹ said landes ne nat vtterly shifted & gone from such person or persones as haue ryght vnto them', but be alonly discontynued for a tyme. tyll the person which after the death of such discontynuer hath ryght vnto them, do recontynewe & brynge them home agayne nat by entry but by sute and way of action. As for example, if tenaũt in tayle of certayne landes doth infeffe an other in the same, in fee simple or fee tayle and hath issue and dyeth, his issue can nat entre in to the landes, thoughe he hath tytle and ryght vnto them, but is put to his action, whiche is called a forme done in the discẽdre. And if such tenaunte in tayle which maketh such a feoffement, hath no issue at tyme of his death, it ys yet neuertheles a discontinuance to him which is eyther in the reuersion or in the remaynder so that neyther thone nor thother cã entre, but be dryuen to theyr action he in the reuersion to his forme done in ỹ reuerter, and he in the remaynder to his forme done in ỹ remaynder.

Formdone in the dicendre.

Formdone in the reuerter or remainder.

☞ In lyke maner yf a byshop doth alien lãdes which be percel of his byshoprych, & dyeth

this

this is a discontynuance to his successour forasmuch as he can nat entre, but is driuē to hys writ of entre sine assensu capituli. Entre sine assensu capituli.

¶ Semblably, yf a Deane be sole seised of lā des as in the ryght of his deanry and maketh such an alienation, this is a discontinuance to his successour. Also if the maystre of an hospitall alieneth any landes of his hospitall, this is a discontynuance and his successour can nat entre, but is put to his writ. De ingressu sine assensu confratrū & forozū. Ingressu sine assensu cōfratrum et forozū.

☞ But yf a ꝑson or vicare of a church wyll aliē any of his glebe landes to another in fee simple or in fee tayle, & dyeth or resigneth hys benefice, this is no discontynuance to his successour, but he may very well entre, natwithstādyng such alienacion made by his ꝑdecessor. And the hyghest writ ꝑ a person can haue yf his ꝑdecessour hath alieued his glebe lāde or lost it by defaute or reddicions is a Juris vtrum. Juris vtrum.

¶ And forthermore note ꝑ no tenaunt yf the lande can by his or their acte discontinue the ryght of hi in the reuersion onles it be by a fyne fement with lyuery and sealon ozels by a releas with warraunte.

¶ And note that such thynges as passeth by wey of graunt by dede without lyuery & season can nat be discontynued as auowson, cōmon, or vyllayne ingrosse, reuersion, rēt charge common for beestes certene & such other lyke.

¶ Also ye shall vnderstande, that in the .xxxii. yere of this kynges most noble reigne, it is inacted, ꝑ no fine fefemēt or other acte to be made or suffred by ꝑ husbande only, of any lādes or tenementes beynge ꝑ inheritāce or fre holde of

his

his wyfe durynge the couerture betwene the. shalbe any discontinuance therof or be preiudicial or hurtfull to ỹ sayde wyfe or to her heyres, or to such as shall haue ryght tytle or intrest to ỹ sāe by ỹ deth of such wyfe but ỹ the sāe wife & her heires, & such other to whō such ryght shall apperteyne after her decesse maye than lawfully entre into all suche landes and tenementes accordynge to theyr ryghtes and tytles therin.

¶ How recouerye by collusion agaynst tenauntes for terme of lyfe is no discontinuance, enacted An.xxxii.Hen.viii.

Where dyuerse persons sealed of landes and hereditamentes, as tenaūtes by the curtesy of Englande, or otherwyse only for terme of life or lyues haue heretofore suffred other psons by agremēt or couin betwene thē had, to recouer the same agaynst them in the kynges court by reason wherof, they to whom the reuersion or remaynder therof hath belonged, haue after the deathes of such tenauntes bene dryuen to theyr actions for the recontynuance and obteynynge of the sayde landes & tenementes so recouered, and somtyme haue bene clearly disherited of the same, it is enacted that al such recouerye hereafter to be had by agrement of the partie or by couyn, agaynste any such particuler tenaunt of landes or hereditamētes, wherof he is or herafter shalbe seased, as tenaunt by the curtesy of Englande, tenaūt in tayle after possibilitie of issue extynct or

or otherwyse for terme of lyfe, shal frõhẽceforth as agaynst such ylons to whom the reuersion or remayndre shall thã appertayne & agaynste theyr heyres & successours, be clerely voyde.

¶ Prouyded ꝑ this acte extende nat to any yson that shall by good tytle recouer any hereditamẽtes without fraude or couyn agaynste any such yticuler tenaũt by reason of any former ryght or tytle, nor yet to auoyde any recouery to be had agaynst any such yticuler tenaunt by thassent & agremẽt of those in ꝑ reuersion or remayndre, so ꝑ such assent & agremẽt do appeare of recorde in the kynges court.

¶ Howe wrongfull disseisin is no discente in the lawe, inacted. Anno. xxxii. Henrici. viii. Capitulo xxviii.

Where diuerse persons haue by strẽgth and without tytle entered into landes and tenementes and wrongfully disseysed & dispossessed the ryghtfull owners and possessours therof, & so beynge seased by disseisin haue therof dyed seased by reason of which dyeng seised, the parties ꝑ were so disseised and dispossessed or such other persons as before suche discent myght haue lawfully entred into the sayd landes & tenemẽtes wt thers by clerely excluded of theyr entre into the same and put to their action for their remedy and recouery therin: it is inacted, ꝑ the dyeng seised here after of any such disseisour hauynge no ryght or tytle therin, shall nat be demed any such discent in ꝑ law to take awaye the entre of such persons or theyr heyres which at the tyme of the same discẽt had good tytle of entre

vnto the same. Except ꝑ suche disseisour hathe had the peasible possession of the landes or tenementes wherof he shall so dye seased by the space of tyue yeares next after the disseasin by him cõmycted without entre or cõtynuall clayme by suche as haue lawfull tytle therunto.

¶ The limitacion of prescription inacted Anno.xxxii.Hen.viii.

NO person shal sue or maytayne any wryt of ryght, or make any tytle or clayme to any landes tenemẽtes, rentes, annuities, commons, pensions, porcions, corrodies, or other hereditamẽtes of the possession of his auncestor or predecessour, & declare any further seisin or possession of his auncestour or ꝑdecessor but only of the seisin or possession of his auncestour or predecessour, which hath ben seised of the same within.xl.yeres next before the feast of ꝑ same wryt, or next before ꝑ sayde tytle or clayme, so to be sued.

Limitacõ of.xl. yeres

¶ Also none shall sue or maytayne any assise of Mortancestor, conisage ayle, wryt of entre vpon disseysin done to any his auncestours or predecessours, or any other action possessary vpon the possession of any his auncestours or predecessours, for landes or hereditamentes of further seisin or possession of thẽ, but only hys seisin or possession whiche was seised therof within fyfty yeres next before the teste of the originall of the same wryte. And none shal maynteyne action for landes or other hereditamẽtes vpon his owne seisin or possession therin, a boue.xxx.yeres next before the teste of the originall of the same wryte.

Limitation of .l. yeres.

Lymitacõ of.xxx yeres.

☞ Item none shall make any auowrye or conysaūce for any rent, lute, or seruyce, and alledge any seisin of ꝑ same in his auowry or conysaūce in possession of his aūcestors or predecessours, or in his owne possession, or in the possessiō of any other whose estate he shal clayme to haue, aboue fyftye yeres next before the makynge of the sayde auowrye or conysaūce. Auowrie

Moreouer all formdones in reuerter, formdones in remainder, and scire facias vpon fines of landes or other hereditamentes to be sued, shalbe taken within fyftye yeres next after the tytle of actiō falle. And if any do sue any of the sayd actiōs or wrytes for lādes or other hereditamentes or make any auowrie conisance prescription or clayme for any rent, fupte seruyce, or other hereditamentes, and can nat proue ꝑ he or his aunce stours or predecessours were in actuall possession or seasō therin at any tyme within the yeres before lymitted, if the same be trauerfed or denyed be the partye playntyfe demaundant or auouant or by the partie tenaunt or defendant, he and his heyres shall from hēfforth be vtterly barred for euer of euery ꝑ said wrytes, actions, auowries conisaunce prescripcion, tytle, & clayme herafter to be sued or made for ꝑ same landes or other the premisses, for which such action wryt auowry, conisaūce, tytle or clayme herafter shal be sued or made. Barre.

¶ Prouyded, that all persons whiche nowe haue any of ꝑ sayd actions, wrytes, auowryes scire facias, conisaunce, prescripcion, tytle, or clayme dependynge, or that herafter shall sewe or bryngе any of the sayd wrytes, or actions, or make any of ꝑ sayd auowryes, conysaūces,

prescription, tytles, or clayme at any tyme before the feast of ꝑ Ascẽtion of our Lorde which shalbe in the yere of our Lorde. thousande fyue hundreth forty and fyue, shal alledge the season of theyr aunce stours or predecessours, or theyr owne possession & season, & also haue all other lyke aduauntage in the same wrytes, actions, auowtyes, conisaũces, prescripcios, & claymes as they myght haue had before the makyng of this statute Prouyded also, that yf any person be now within the age of. xxi. yeres, or couerte baron, or in prison, or out of this realme, nowe hauynge cause to bryng any of the sayd wrytes or actions, or to make any auowtyes, conysaũces, prescripcion or claymes it shalbe lawfull to such persone, to sue or bryng any of the sayde actiõs, or to make any of the sayd auowtyes, conisaũces, tytles or claymes at any tyme within fyue yeres next after such person nowe beyng within age, shal accomplysshe the age of xxi. yeres, or nowe beynge couerte baron, shalbe sole, or now beyng in prison, shalbe at theyr lybertye, or now beyng out of this realme, shal come & be within this realme. And that euery such persones in theyr sayde actions auowtyes conisances tytles or claymes to be made sued or cõmenced within the sayde fyue yeres, shal alledge the season of theyr aũcestours or predecessours, or of theyr owne possession, or of the possession of those whose estate they shal then clayme. And also within the same fyue yeres shall haue lyke aduaũtage in the same, as they myght haue had before ꝑ makig of this acte Prouyded also, that yf the sayd plons now beynge within age, or couert baron, in prison or out

Whether that shall take effecte.

out of this realme, do dye within age, or beyng couert, or in prison, or out of this realme or deceale within. vi yeres next after they shal accõplysshe theyr full age, or shalbe at large within this realme, or shall become sole, & no determination or iugement had of suche title, actions or ryghtes so to them accrewed, then the next heyre of such persones shall enioye lyke auaũtage to sue demaunde aduowe declare or make theyr sayd titles, claymes or prescriptions wtin syxe yeres nexte after the deth of such persones, as the same infaunt after his full age, or the sayde woman couert after the death of her husbande, or the same persone beyng oute of this realme after his repayre or commynge into the same, or the sayde person imprysoned after his enlargement and commynge out of prison, myght haue hadde within .vi. yeres then next ensewynge by force of the prouision laste before rehersed.

¶ Prouyded also, that yf any persons before the sayd feast of the ascention sue any of the sayde actions or make any auowrye title or clayme, and the same happen by the death of any of partyes therunto, to be abated before iugement or determination therof had then the sayd persons beyng demaundaũtes, or auowantes, or makynge any such conysaunce, prescription, title, or clayme beynge then on lyue, and yf nat, then theyr next heyres, may commence theyr action and make theyr auowrye conysaũce or clayme vpon the same matter within one yere next after such sute abated, & shall haue lyke aduaũtage to sue demaunde auow declare or make theyr sayd title claymes

or prescriptions wtin the sayde one yere, as the demaũdaũtes in such wrpt or sute abated, or as such as dyd auow or make conisance, tytle clayme or prescription, myght haue enioyed in the sayd former action or sute.

¶ Prouyded furthermore, that yf any false verdit herafter be gyuen in any of the sayde actions, sutes, auowrpes, prescriptions, tytles, or claymes thẽ the party greued may haue his attaynt vpon euery such verdit, & ỹ playntyfe in the same attaynt vpõ iudgemẽt for hi gyuen shall haue lyke recouerye, execution and other aduaũtage as heretofore hath bene vsed.

Attaynt vpõ false verdit.

¶ Of Fynes.

Fynes haue theyr name, bycause they make a fynal ende and determinatiõ of all sutes strykes and debates betwene mẽ. For the due leuyeng wherof, it was inacted in the .viii. yere of kynge Henry the vii. that they must be solemnly before the iustices of the cõmon place rede & proclaymed the same terme and thre termes next folowynge the ingrosement, at which tymes all the plees must cease. And such fynes shalbe a sufficient barre and discharge agaynst al plons, sauynge womẽ ỹ be couert barõ if such womẽ be nat priuie to ỹ same fine, or such as be wtin age, i prisõ out of the realme, or out of their rpght mindes. But these fines shal nat cõclude ne bar al straũgers which haue rpght to ẽtre or to haue action, yf they come wtin .v. yeres aft such proclamations mad

made or(in case the cause of action falleth vnto thē after the fyne so duely leuied)yt they come and commence theyr action and sute within.v. yeres next after such cause of action to them accrued. And they may sue agaynst the takers of the profytes. But yf they that haue ryght therto be within age, in pryson couert baron, out of ꝑ realme or nat̄i their right memory thē their title or ētric shalbe saued vnto thē tyl they be of ful age, out of prison, discouered and sole within the realme or of ryght mynde, and then within fyue yeres after theyr action or entrye must be sued or made with effecte.

¶ Also by ꝑ sayd statute it shal be a good plee for all straūgers to say, that they ꝑ were parties to the fyne nor none other to theyr vse, had any thynge in the tenementes or landes at the tyme of the leuying of the fine.

¶ Furthermore in ꝑ.xxxii.yeres of this kyng for thaduoydynge of certayne doubtes and ambiguities, it was inacted, that all fines as well heretofore leuyed, as herafter to be leuyed accordynge to the sayd statute of Henry the.vii. by any person of the full age of.xxi.yeres, of any landes or other hereditamentes beynge, before the fine leuyed, in any wyse tayled vnto hi or to any of his ancestors in possession reuersion remaindre or in vse, shalbe immediatly after the same fine leuyed ingrossed & proclamations made a sufficient barre and discharge for euer aswell agaynst hym and his heyres clayminge the same onely by force of any such entayle as agaynst all other to theyr vse, so that the same fines be nat leuyed by any woman after the deth of her husbande, contrary to ꝑ sta- Barre.

tute made the.xi.yere of Henry the seuenth of
Anno.xi. Hen.viii landes and tenementes of thinheritance or pur
chase of her husbãde or of any of his ancestors
gyuen to her in dower, for terme of lyfe, or in
tayle in vse or in possession. Excepted also all
kynes leuyed or to be leuyed of any such landes
or hereditamentes as ỹ owners therof by any
speciall acte of parliament made syth the sayde
In iiii. Hen.vii. fourth yere of Henry the.vii. be restreyned frõ
makynge any alienations discontinuancies or
other alterations of the same. Also of such lã-
des as be now in sute and variãce in any of ỹ
kynges courtes, or wherof any euidences be
nowe in demaunde in the chaũcery, or which be
already recouered. Excepted also fines leuyed
or to be leuyed by any person, of landes or tene
mentes graunted to hym or to his ancestours
in tayle eyther by the kynges letters patentes
or by vertue of any acte of plyament, wherof ỹ
reuersion is in the kynge. And cõfirmed in the
xxiiii.yere of Henrye the.viii.

¶ Of testamentes or last wylles.

Diuisiõ. TEstamentum in latin is as
much to saye as mentis testa-
tio, ỹ is a declaration or wit-
nessinge of a mãs myndе. And
there be two sortes of testa-
mentes The one is called te-
stamentum scriptum, that is
Wrytten testamẽt. that is a wrytten testament, or a laste wyll by
wrytynge, and the other is called testamentũ
nuncupatum a testament nũcupatiue, which is
Testamẽt nũcupatiue. whẽ a mã doth expresse by mouth his last wyll
and testamẽt without wrytynge, by callyng be
fore hym certayne of his neyghbours i whose
presence

presence he doth signifie by wordes his laste mynde and wyll. And this formost part mē vse to do when fere of sodennes of deth, they dare nat abide the wrytynge of theyr wyl. And this wyll (onlesse it be in certaine cases) is as stronge and as sure, as is a testament or laste wyll put in wrytynge and sealed with ꝑ seale of the testatour.

¶ Also though a testamēt by wrytyng be nat sealed with ꝑ seale of the testatour, yet is the testament good and effectuall in the lawe.

¶ And ye shall also marke, that where a man maketh ones his testament and wyll and after warde maketh another wyll by wordes if his last wyll be pued before ꝑ Ordinary, & by hym put in wrytynge and inscaled with his seale, such last wyll shall auoyde ꝑ fyrst wyl, onles it be in speyall cases, and so alwayes the latter wyll and testamēt shall auoyde the former.

¶ Fynally by an acte made the xxi. yere of kynge Henry theyght, it was ordeyned that where parte of therecutours named in ꝑ testament wherin any landes or tenemētes be wylled to be solde by them, refuseth to take vpon them the administracion, & the residue do take the charge and administration vpon them, in this case all bargaynes and sales of the sayde landes made onely by those executors ꝑ toke ꝑ administration of the testament vpon them, shalbe as good and effectuall, as yf al the residue of the executours so refusynge had ioyned in the makinge of the bargayne and sale. Executours.

¶ The difference betwene executours and administratours.

Executours is when a man maketh his testament & last wyll and therin nameth ꝑ persone which shall execute his testament, then he ꝑ is so named is his executour, and such an executour shall haue an action agaynst euery dettour of his testatour. And if ꝑ executours haue assetes that is to say sufficiēt in theyr handes then shal euery one to whom ꝑ testatour was in det haue an action agaynst ꝑ executour yf he haue an obligation or especialty to shewe. But in euery case wher the testatour myght wage his law, there no action lyeth agaynst the executour.

Assetes in the handes of executours.

Administratour. ¶ Administratour is he, to whō the ordinary cōmytteth the administration & bestowyng of the goodes of a ded man for defaulte of an executour. And actions shall lye agaynst hym and for him as for an executour, & he shall be charged to the value of ꝑ goodes of the ded and no further, if it be nat by his false plee, or for that he hath wasted the goodes of the ded. But if the administratours dye his executours be nat administratours, but it behoueth ꝑ ordinary to cōmyt a newe administration. Howbeit if a strauger I meane hym that is neyther executour named in the testament and last wyll nor yet administratour appointed by the ordinary, wyll take the goodes of the ded and minister of his owne hed and mynde without lawfull authoritie, this person shall be charged & sued as an executour, and nat as administratour in an action which is brought agaynst hi by any creditour. But yf the ordinary make a lettre

Executour of his owne wronge.

ad colligendū bona defuncti, he that hath such a letter is nat administratour, but the action lyeth in this case agaynst the ordinary, as well as if he toke the goodes by his owne hande, or by the hande of any other his seruaunt by any other commaundement. A lettre adcolligendū

¶ An acte for probate of testamentes. made. Anno xxi. Henri. viii.

MOthynge shall be take by any haupnge auctorytie to take probacion inslinuacion or approbation of any testament wher the goodes of the testatour do nat amoūt aboue the value of C.s. except to ꝑ scribe for wrytynge therof. vi. ð. And for the cōmission of ministration of the goodes of any dyeng intestate nat beyng lykewyse aboue. C.s. vi. ð. Also none haupnge power to take probate of testamētes shall refuse to approue testamētes beyng lawfully offred vnto them in wrytynge with waxe therto affixed redy to be sealed, so that they be lawfully proued before the same ordynary to be true. And whē the goodes of the testatour do amoūt aboue an. C.s and nat excede. xl. li. none shall take for the probation regestrynge sealynge and wrytynge of any such testament aboue. iii. s. vi. ð. wherof to be to thē that haue auctorytie to take the probation. ii. s vi ð. and the other. xii. ð. to the scribe for regestrynge.

¶ And where the goodes amoūt aboue xl. li. than onely v. s. to be take, wherof to be to thē that haue auctorytie to take the probation ii. s. and. vi. ð. and thother. ii. s. vi. ð. to the scribe

for

for the regestrynge, or els yf he refuse that .ii.s. vi.d. thē he to haue for euery .x. lines euery lyne conteynynge in length .x. ynches .i.d.

¶ And they that haue auctorytie as is aboue sayde shall approue insinuate seale and regester the testamētes and deliuer them sealed wt the seale of theyr offyce to the executours for the sums abouesayd and yͤ with conuenient spede without any frustratorye delay.

¶ And yf any person dye intestate or the executours refuse to proue the testament, than they hauyng auctorytie as is abouesayde, shal graūt thadministration of the goodes to yͤ wydowe of the persone deceased or to the next of kynne or to both after theyr discretion, takynge sure-

Suertye tye of thē for true administracion of yͤ goodes and dettes, whiche they shal be so auctorised to minister. And where one or dyuers clayme thadministration as nexte of kyn which be egall in degre of kynred, or where any one pson desireth yͤ administration as next of kyn wher in dede dyuers persones be in equalytie of kynred, then in any such case the ordinary shalbe at liberte to take one or mo makynge request. And where dyuers require the administracion, or where but one or mo of them & nat al beyng in lyke degre, make request than the ordynary shall admyt the wydowe and hym or thē onely makynge request or any of them, takynge nothynge for the same where the person deceased dyed nat worth .C.s. And yf he dyed worth .C. s. and nat aboue .xl.li. than .ii.s. vi.d. onely to be taken. And the executour or administratour callynge to hym the dettors two at the least or such persons to whom any legacye was made

and

and yf they refuse than.ii.nert of kyn to ỹ persone deceased and in their defaute.ii.other honest persons shall by theyr discretions make a true inuentorye indented of all the goodes, which persons swerynge before the bysshope or his offycers to be true, shall delyuer ỹ one part therof vnto thẽ, & ỹ other kepe with hym selfe. And none hauynge authorytie to take probate of testamentes vpon payne conteyned in this statute shall refuse to take any such inuentory presented or tended to them.

Inuẽtorye of goodes.

¶ Prouyded, yf any person shall dispose or wyll by his testament any landes or hereditamentes to be solde, that the monye or profites of the same be accõpted for goodes or catels. And they hauynge the auctorytye aboue sayde vpon the delyuery of the seale and signe of the testatour shall cause ỹ same to be defaced and incontenent shall redelyuer it to ỹ executor wtout any clayme, and if any requyre a copy of ỹ testamẽt and inuentory, thã they hauinge auctorytie or theyr ministers, shall without delaye deliuer thẽ a copy takinge therfore and for the regestrynge of the same as before or els for euery ten lynes.i.d.

¶ Prouyded, that where they hauynge auctorytie as is aboueseyd haue vsed to take lesse for ỹ probate of testamẽtes or other thinges concernynge ỹ same thã is here specified, they shall take as they dyd before this acte.

¶ Nowe yf any that haue auctorytie to take probate of testamẽtes or theyr ministers do attempte agaynst this acte, they shall forfete for euery tyme to the party greued as much mony as they shall take cõtrary to this acte And ouer

that

that.x.M. the one halfe to the kynge the other to the party greued, that wyll sue by action of debt byll information or otherwyse in any of ꝑ kynges courtes, wherin no essoyne protection nor wager of law shalbe alowed. And euery of thē shalbe charged for hī selfe & for none other.

¶ Prouyded, that euery one hauynge auctoryte abouesayde, may call before thē euery person named executour, to the intent to proue & refuse the testament and to bryng in inuentaries and to do euery other thynge concernynge the same, as they myght before thys acte, so ꝑ neyther they nor theyr ministers shall take aboue the fees limited by thys acte.

¶ Howe landes and tenementes may be by testament or otherwyse disposed inacted. Anno. xxxii Hen. viii.

EVery person hauynge landes or other hereditamentes holden in socage, or of the nature, and nat hauynge any landes or hereditamentes holden of the kynge by knyghtes seruyce, or socage tenure in chiefe, or of the nature of socage tenure i chiefe, nor yet of any other ꝑsone by knyghtes seruyce: may gyue, dispose, and deuyse, alwell by testament in wrytynge, as otherwyse by any acte lawfully executed in his lyfe, all his sayde landes or hereditamentes or any of them.

¶ And euery person hauynge landes or other hereditamentes holden of the kynge in socage or of the nature of socage tenure in chiefe, and hauynge also any other landes or hereditamētes holden of any other person in socage or of

the
any
oth
tym
wry
tent
ple
of ꝑ
eyg
the
for
an
to
ny
he
tu
al
h
ſ
te
w
h
o
th
g
th
o
t
c
k
ꝑ
o
v
u

the nature of socage tenure, and nat haupnge any hereditamẽtes holden of ꝑ kynge or of any other by knyghtes seruyce may from the sayde tyme gyue and deuise alwell by testament in wrytyng, as otherwise by any acte lawfully ꝓtected in his lyfe, all and euery of them at hys pleasure. Haupnge to the kynge all his ryght of ꝑmer seasen and reliefes, and also al other ryghtes and duryes for tenures in socage or of the nature of socage tenure in chiefe, as herto-fore hath bene accustomed, the same to be takē and sued out of the kynges handes, by ꝑ whom any such landes shalbe disposed or dꝛ-ysed in lyke maner as hath bene vsed by any heyre or heyres before the makynge of this sta-tute. And saupnge & reserupnge also fines for alienations of such landes & hereditamentes holdē of the kynge in socage or the nature of Hocage tenure in chiefe, wherof shalbe any al-teration of freholde or inheritaūce made by wyll or otherwyse as is afore sayde. ꝑmer seasen & reliefes.

¶ Item all persons haupnge landes or other hereditamentes of estate of inheritance holden of the kinge in chiefe by knyghtes seruice or of the nature of knyghtes seruyce in chiefe maye gyue wyll or assigne two parties of the same in thre partes to be deuyded or els as much ther-of as shall amoūt to the yerly value of two par-tes of the same in thre partes to be deuided in certaynty and by special diuisiōs as it may be knowē i seueraltie, for ꝑ auāsemēt of his wyfe ꝑfermēt of his childrē, & paymēt of his dett, or otherwyse at his pleasure. Hauig to ꝑ kyng al well the wardshyp and ꝑmer seasen of as much as shall amoūt to the clere yerly value of

the

the thyrde part therof without diminution dower fraude couein charge or abridgemēt therof, as also all fines for alienations of all suche lādes holden of him by knyghtes seruyce in chiefe wherof shall be any alteracion of freholde or of iheritaūce made by wil or otherwise ☞ And euery person haupnge landes or tenementes of estate of inheritaunce holden of the kynge in chiefe by knyghtes seruyce, and other landes holden of him or of any other by knyghtes seruyce or otherwyse may gyue or assigne by his testament or otherwyse as is afore sayd two partes therof in thre partes to be deuided or els as much therof as shal extende to ꝑ yerly value of two partes to be diuided in certaynty. Saupnge to the kynge aswell the wardeshype and primer season of as muche, as shall amoūt to the yerly value of the thyrde parte, without dyminution. &c. As also all fines for alienations as is aboue sayde.

Fines for alienations.

¶ Item euery person holdynge landes or tenemētes only of any other than of the kyng by knyghtes seruyce and other landes & tenemētes in socage or of the nature of socage tenure may gyue dispose or assure by testamente or otherwyse two partes therof holden by knyghtes seruyce or as much as shall amount to the full yerly value of two partes. And also al ꝑ lādes and tenemētes holden by socage or of the nature of socage tenure at his pleasure. Saupng to the lorde of the landes and tenementes holden by knyghtes seruyce for his wardeshyp as much therof as shall amoūt to ꝑ clere yerly value of ꝑ thyrde part wout diminution. &c.

¶ And euery ꝑson holdynge onely of ꝑ kynge

by

by knyghtes seruyce but nat in chiefe, or holdynge of ꝑ kynge by knyghtes seruyce, & nat in chiefe, and also other hereditamentes of others by knyghtes seruyce, and holdynge also other hereditamentes of any other person in socage or of the nature of socage tenure, may gyue and assure by his laste wyll or otherwyse two partes of ꝑ is holde of the kyng by knyghtes seruyce and two partes of that is holden of any other person by knyghtes seruyce, or as much of eyther of them as shall amount to the full yerly value of two partes and also all hys landes and tenementes so holden in socage or of the nature of socage tenure. Sauynge as well to the kynge the wardeshyp of as much as shall extende to the clere yerly value of ꝑ thyrde part of the same so holden of him by knyghtes seruyce without diminution. &c. As also to ꝑ lordes of whom any of the sayde landes bene holden by knyghtes seruice for wardeshyp as much of ꝑ same, as shal amoūt to ꝑ clere yerly value of ꝑ thyrde part i maner aboue declared. ¶ And yf that thyrde part which in any of ꝑ cases abouesayde shall come to the kyng do nat amount to the clere yerly value of the full .iii. part of all the sayd hereditamentes wherof the kynge shalbe intitled to haue ꝑ custody or primer season: than the kynge may take into his handes as much of thother two partes of the sayde hereditamētes as with that of the same hereditamentes remaynynge in his hāndes shal make vp the clerre yerly value of ꝑ thyrde part therof so to be had to hym in tytle of wardeshyp and primer season. And lyke benefyte to be gyuen to euery lorde of whome any such

herediſtament ſhall be holden by knyghtes ſeruyce concerninge only his thyrde parte for title of wardelhype.

¶ Alſo al plone ſhal ſue theyr liueries for poſ ſeſſions reuerſiõs or remaynders, & alſo paye reliefes & herietes like as they ſhulde haue done before ꝑ makynge therof. And fines for alienations ſhalbe parde in ꝑ chancery vpõ wrytes of entre in the poſt to be obteyned there for cõmon recouerves to be ſuffered of any landes holden of the kynge in chiefe in lyke maner as is vſed vpon alienations of landes ſo holden in chiefe by fyne or feoffement.

¶ Prouyded ꝑ in ſuche caſes where fynes for alienatiõs ſhalde payd in ꝑ chancery for writs of entre in ꝑ poſt as is afore ſayd none other fyne ſhalde payd there for any ſuch wryttes.

☞ Item where two or more perſons holde of the kyng by knyghees ſeruyce ioyntly to the and to ꝑ heires of one of the, & he ꝑ hath the inheritaunce therof dyeth, his heyre beinge within age, the kyng ſhall haue the warde and maryage of the body of ſuch heire the lyke of the freholder or freholders of the landes ſo holde by knyghtes ſeruyce natwithſtandynge.

¶ Sauyage to al wome ſuch ryght & tytle of dower as they owe to haue of any lãdes or tenemẽtes to be aſſygned vnto the out of ꝑ two partes of the ſayd lãdes or tenemẽtes ſeuered from the thyrde part as is aboue ſayd and nat otherwyſe. And ſauynge alſo to the kynge the reuerſions of all ſuch tenauntes in ioyntenure and dower immedyatly after the deth of ſuch tenaũtes, yf they ſhall happen to dye, durynge the none age of the kynges wardes.

Of

¶ Of mariages, inacted. Anno. xxxii. Henrici. viii.

IT ys inacted, ꝑ krō the fyrst daye of July, in the yere of our Lorde a thoulande fyue hundreth and foxty, all maryages within this Churche of Englande cōtracted betwene lawful ꝑsons, as by this acte we declare al persons to be lawful ꝑ be nat prohibited by Godes law to marye, such maryages beyng contracte & solēpnysed in the face of ꝑ churche & cōsummate with bodily knowledge or frute of chyldrē or chylde beynge had therin betwene ꝑ partyes so maryed shalbe demed & taken to be lawfull, good & indissoluble, natwithstādynge any precontracte of matrymonye nat consummate with bodely knowledge eyther of the persones so maried or both shal haue made wᵗ any other before the tyme of contractynge ꝑ maryage which is solemnised and consummate, or wherof such sute is ensued or may ensue as afore: and natwithstandynge any dispensation prescription, lawe or other thynge graunted or confirmed by acte or otherwyse. And that no reseruation or prohibition, goddes law excepte shall trouble or impeche any mariage without leuiticall degrees. And that no persone shall after the sayd fyrst daye of July aforesayde, be admytted in any of the spirituall courtes within this the kynges realme, or any his other landes and dominions, to any proteste plee or allegation cōtrarye to thys acte.

¶ Finis.

Tabula.

Here yt must be remẽbred that ỹ nõber in this Table folowynge, dothe expresse and shewe ỹ leafe wher you shal fide your delyre, & this lettre A. maketh mencion of the fyrst page or fyde and this letter B. the seconde page or fyde.

A

Abatemẽt of the writte. folio. xlvi.b.
Accompt. fo.xxxv.b.
Acquytall fo.xxxviii.a.
Administratour fo.lxi.a.
Ages of man and woman. folio xxxv.a.
Ayde prayer fo. xxvii.a
Annuite xlviii.a.
Assetes in the handes of executours fo.lxi.b.
Assise fo.xxii.xxxi.b.l.a.
Atturmẽt fo.xxxi.a.xlix.b.
Auowry fo.xxv.b.liii.lviii.a

B

Barre fo.lviii.lx.a.
Base tenure fo.vi.a.
Basterde fo.xii.a.xliiii.b.
Burgage tenure fo.xliii..a

C

Castel warde fo.xxxvi.b.
Chatell fo.ii.a
Chatelles reall & personall folio vi.a.
Copy of coust roll fo.iiii.b.
Cornage fo.xxxvii.a.
Condicions fo.xxvii.b.
Condiciõs i dede fo.xxvii.b.
Cõdicions in law fo.xxix.a
Condicions agaynst ỹ lawe folio xxix.a.
Condicions repugnant folio xxix.b.
Condicions impossible folio xxix.b.
Condicions wherof estraũgers shall take auantage folio xxix.b.
Customes fo. xliii.a.

D

Damage i dower fo.xi.a.
Damages fo.xxv.li.b.
Double damages fo.l.a.
Det fo.xxx.iiii.b.li.liii.a
Det agaynst the ordynarye folio lxi.a
Deuise by custome of fyme broughe fo.xliii.b.
Deuise fo.xi.b.xx.b.
Diem clausit extremum folio xxix.a.
Discent fo.xii.xv.a.
Disclaymer fo.xxxviii.b
Disgemẽtes fo.xxxv.b.
Discrym fo.xviii.b

J.iii. dis-

Tabula.

Villeylin of rent secke.
folio l.a.
Distres fo.4.b.42.48.li.a
Distres for elcuage fo.34.a
Tenāt by Dyuine seruyce
folio xlii.b.
Tenāt i dower fo.vi.viii.b
Dower by custome fo.43.b

E

Ejectiōe firme fo.xxvi.b
Ejectiōe custodie fo.xxvi.b.
Encloser fo.l.b.
Elchete fo.xii.b.
Elcuage fo.xxxiii.b.
Elcuage certē fo.xxxiiii.a.
Elcuage vncerten fo.34.b.
Estopell fo.xlviii.b
Executours fo.l b.lxi.a.
Executours of theyr owne
wrōge folio.lxi.b.
Extinguilmēt fo.xlix.a.

F

Fealte fo.xxxiii.b.
Fee ly mple fo.xi.a.
Fee tayle fo.xiiii.a
Fee onelyde fined fo.xxii.a
Fees of an office fo.xl.b.
Fynes fo.lvii.b.
Fynes for alyenacions.
folio lxiiii.b
Forfeture fo.iiii.xvi.a.xl.b.
Formdone in the discendre.
folio lv.b.
Formdone in the reuerter.
folio lv.b.
Formdone in ỳ remaynder
folio lv.b.
Forme of pleadynge
folio xxvi b.
Frankalmoyne fo.xlii a.
Frankfee fo.xlvi.b.
Frākmariage fo.xiiii xvii.b
Freholde fo iii.a

G

Graūtes by corporacions.
folio lii b.

H

Hoche potte fo.lvii.b.
Homage fo.xxxii.b.
Homage auncestrell.
folio xxxvii.b.

I

Infrāchemētes fo.xlv.a.
Ingressu sine assensu Capi.
folio lvi.a.
Ingressu sine assensu con-
fratrum et consorum.
folio lvi a.
In heritaunce fo.iii.a.
Inuentorye of goodes
folio lxiii.a.
Joyntenaūtes fo 18.22.a.
Joyntenaūtes of personall
and real goodes fo.xix a.
Joyntenaūtes of a warde
folio xxvi.a.
Juris vtrū fo.lvi.a.
Justyces of peace fo.53.b.

K

Knyghtes seruyce fo.32.b

L

Aetꝭ adcolligẽdꝰ fo.lxii.a.
Aymytacion of ꝓꝛelcꝛiption
Folio lvii.b.
Ayuerye & leaſon fo.3.30.b
Ayueres fo.xxxviii.b.

M

Manumiſſion fo.xlv.a.
Mariage fo.34.b.66.a.

O

Obligacion fo.xxix.b.
Oꝛdinarye fo.lxii.a

P

Particione laciendꝰ.
Folio xxvii.a.
Perceners fo.xii.xvi.b
Petite ſergeaũtee fo.37.b.
Playnt in aſſice fo.xxv.b.
Plee in dette fo.xii.b.
Plees in auowꝛie fo.li.b
Pꝛelcꝛiption fo.xxiiii.b
Pꝛimer ſealõ fo.38.b.64.a
Pꝛobate of teſtamentes
Folio lxii.a.

R

Rediſſeiſin fo.l.b.
Relefe fo.xxvi.xlii.lxiiii.a
Releas fo.xxiii.b.
Rent reſeruyd fo.iii.b.
Rent charge graunted by a
iointenaũt fo.xx.b.
Rentes fo.xlvii.a.
Rent charge fo.xlviii.a.
Rent ſeeke fo.xlviii.a.
Rent ſeruyce can nat be ap-
pꝛoꝛcioned fo.xlix.a.
Rente ys incidẽt to a reuer-
ſion folio.xlix.b.
Repleuyn xlviii.a.l.b.
Reſcous fo.xxv.l.a.
Wꝛyte of reſcous fo.31.b.
Releyte after deſaute.
Folio xxiii.a.
Reſpite of homage fo.xl.a.

S

Scire facias fo.lviii a.
Secõde delyueraũce fo.li.b.
Socage tenuꝫ fo.41.b.43.a
Suerte fo.liii.lxii.b.
Surrendꝛe fo.v.a.
Surrendꝛe of the olde lees
Folio lii.a.
Suruyuour holdeth place
Folio xviii.b.
Sulpence fo.xxxii.a.

T

Tenaunt foꝛ yeres
Folio iii.b.
Tenaunt foꝛ like fo.vi.b.
Tenaunt by the curteſye.
Folio vi.vii.viii.b.
Tenaunt by copy of courte
rolle. fo.iiii.b.
Tenauntes in common.
Folio xviii.a.xxi.b.
Tenaũt after poſſibilite of
iſſue extinte fo.xv.b.
Tenaũt at wyll fo.iiii.b.
Teſtamẽtes & wylls fo.lx.b
Treſpas fo.iiii.v.xxvi.b.

V

Tabula.

Waiue of marryage fo.36.a
villayne in grosse fo.xlv.b.
Villaine regardaūt fo.xlv.b
Villenage fo.xliii.b.
Voucher fo.xxxviii.a
W
Wager of law fo.lxi.b.
Warde fo.xxxiii.b.
Warraūtie fo.xxxviii.a.
Waste fo.iiii.vii.viii.a.
Waste dispernisshable.
Folio xv.b.

Finis Tabule.

W:H.:

Imprynted at London in Fletestrete at the sygne of the George nexte to saynt Dunstones churche by me Wyllyam Myddylton. In the yere of our Lorde God a M.D.xliii. The xxv.day of June.

CVM PRIVILEGIO AD IMPRIMENDVM SOLVM.